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[For general information on the payment of blood-money in retribution for homicide, see Category 682.]

692 police and not to his 'aqila. This was a serious case because
685 the police were forced to imprison the dike-builder for two
648 days before he would agree to their demands. The two men in-
*613 volved in the conflict were from different lineages, and it soon became necessary for Bedouin justice to intervene even after the matter had been settled by the police. The 'awaaqil of each man met, along with other notables of the tribe, and investigated the area where the dikes had been; they listened to witnesses and tried to calculate the amount of water which each man should receive. In the end, the decision of the police was upheld.

692 Although, ideally, litigation should be instigated
691 through the office of the 'aqila, alternatives do exist. As
*613 noted in discussing the values of Bedouin society, it is the
[577] moral obligation of each and every person to moderate between conflicting parties; any one conflict situation may be moderated by many well-meaning parties. Or, if a person suspects prejudice on the part of his own 'aqila, he may choose to take
•627 his claim to another 'aqila, or third party. The notion of a
554 third party to a conflict, when it does not refer to the 'aqila
692 or a close kinsman who may act as an arbitrator, has reference to a non-institutionalized role in al-Qasr. This role-holder, the Bedouins call rajal khair ("good man") or qawaal al-khair ("the speaker of the good").

"Role differentiation implies organization" (Levy

554 1952:165), and the role rajal khair along with the other roles
•627 concerned with political action, the 'aqila, shaikh, and 'umda,
692 represent political organization in al-Qasr. Although the role of rajal khair is not institutionalized to the same degree that the others are, we shall see in the next chapter that it is an important one for an understanding of power relations in al-Qasr. All of these roles carry with them some type of right to make binding decisions in matters regarding conflict regulation. That is, an individual should take his
* [613] claims to the 'aqila, but may take them to any of the other political specialists. In any of the cases, the litigants concerned become bound by the decision of the third party.
* [613] But only at the hand of the 'aqila can a decision be made
[695] which will effect a whole group, i.e., only an 'aqila can
[682] give judgment against a corporation for the blood-money in a case of homicide (Schacht 1953:328).

691 If, however, blood-money is not an immediate concern,
692 the litigants may utilize any and all of the political roles
* 613 available in the judicial system. A statement from one of my
554 informants, an 'aqila, is useful here.
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[124]

> The bait is made up of thirty or fourty men, and there is one most important man (rajal kabiir), the 'aqila. The 'aqila puts an end to problems, he sees who deserves this and who deserves that. Problems must be settled. It happened five or six years ago that I and my paternal cousins quarreled over land at Wadi Raml. I went to the police station and complained to the shaikh of the 'Aishaibat. I asked him to choose a person to judge

691 between me and my cousins, according to Bedouin law
692 (yinafth al-'awaiyid bainaana). I went to the shaikh
*613 because my cousins did not agree that we go to the
554 'aqila right away. We agreed that the shaikh would
choose the third party, and the judgment would be
•627 binding on both of us. The shaikh chose Bu Halaiqa as
the third party, and Bu Halaiqa chose three others as
consultants. (Two of the three were rajal khair, and
the other was an 'aqila.) The judgment was that my
cousins were in the wrong. They were fined 10 L.E.
and a dhabiiha("blood sacrifice"). 'Ali intervened and
did not allow my cousins to pay the fine. He had them
write a paper stating, that if they resume this quarrel
in the future they must pay the fine plus another 10 L.E.
fine. (Hajj 'Ali is a rajal khair.)

695 Sometimes the Egyptian police must be brought into a judicial
648 affair to insure the execution of a judgment. In one case,
696 an individual in al-Qasr did not accept the decision of his
'aqila; his 'aqila wrote the decision on paper and sent him
to another 'aqila. The second 'aqila agreed with the first,
but the man also refused this decision. The second 'aqila
wrote his decision on paper and sent it to the shaikh of the
'Aishaibat in Matruh. The shaikh summoned the culprit and
sent him to the police station. Finally, the police were able
to convince the man to pay his fine, and also his expiation
fee to his own 'aqila. My informant said that this was a
minor affair, and that had it been a serious offense committed
by the man he would have been threatened with expulsion from
the corporate group.

*613 As the corporate sole, the 'aqila has political authority
554 which is legitimate and morally binding on all who wish to
571 maintain their status in the group and tribe. Any individual

*613 554 571 171 596 al-Qasr there is definite role differentiation between the shaib and the 'aqila. The incumbents of the two roles may have exactly the same genealogical position in the tertiary segment, but they will never have the same social status. There are as many elders as there are households, but there is only one 'aqila for each group. Another difference between the Bedouins and the Lugbara is that in the latter society a kinship role which doubles as an authority role does not occur above the familial (i.e. shaib) level.

*613 554 596 The difference between the shaib and the 'aqila is the distinguishing factor between informal and formal social control. The shaib acts in accordance with the values implied by Bedouin authority structure: the action of the 'aqila is legitimate in the explicit terms of the Bedouin authority structure. These two spheres of political action represent familial and internal (or domestic) levels of authority and authority relations. Legal matters which affect the whole tertiary segment are dealt with at the internal level.

*627 596 685 Affairs of a purely personal nature and of lesser importance are dealt with at the familial level of authority. For instance, it happened that the dog of one man killed a neighbor's chicken. No one sent for the 'aqila. They sent for the shaib of the woman who owned the chicken, i.e., they sent for her husband. He spoke to the woman, his wife, to determine the value of the chicken and this price he demanded as compensation

627 from the owner of the dog. If the man had refused to pay the
596 price of the chicken, as demanded for settlement, then the
685 next step would have been to inform the appropriate 'aqila
*[613] to bring greater force, and perhaps greater sanctions, to bear.

*613 Bait 'Umar (Figure 8) is one of the authority groups
571 of al-Qasr, a corporate group represented by a corporate sole.
682 Both the tertiary corporate group and the corporate sole are referred to, according to the ancient tradition of the Bedouins, as an 'aqila. This group is a blood-revenge group, and is referred to as 'umraa al-dam ("donator of blood"), or waliiy al-dam ("executor of a blood feud"). It is the group which
[681] decides whether or not retaliation will be taken according to lex talionis, or if blood-money as compensation for the loss of one of its members is acceptable. The Bedouins say that no amount of money can replace a human life, that blood-money is only a means to prevent the loss of more men. This group, when it functions as waliiy al-dam ("executor of a blood feud"), has the authority to demand retaliation; to waive it entirely; or to demand, along with blood-money, that the guilty party be punished by his 'aqila. When this group pays or receives blood-money it does so as a partner in the larger corporate group, the secondary segment. The principle of collective responsibility interplays with the other structural principles of Bedouin society. The convergence represents

682 683 671 Since Bedouin law, and not Egyptian law, still prevails in al-Qasr, personal injury cases must be expedited according to the 'awaiyid lest the greater sanctions embodied in the principle of self-help follow. Sanctioned fines for death and bodily injury are standardized in al-Qasr and in the whole Western Desert. One informant, a rajal khair ("good man") who sometimes adjudicated quarrels, possessed an authoritative paper which listed the injury and ensuing fine prevailing in al-Qasr when I was in the field. Below are the contents of this paper. The comments in parentheses were made by the man as I translated the paper: they were offered as the rationale behind Bedouin law.

[124] [627]

L.E. 400 - for inflicting an injury upon a person which renders him sterile.
400 - for the intentional death of a man with a gun or knife.
400 - for causing the loss of a man's nose, ("Because to cut up a man's nose is to make him ugly.")
400 - for causing the loss of a man's eyes, 200 L.E. for each eye, ("Because without eyes a man can do nothing.")
400 - for causing the loss of a man's ears, 200 L.E. for each ear, ("Because a deaf man cannot work.")
300 - for the death of a man if caused by beating with sticks or stones, ("This is unintentional, for if you really wanted to kill the man you would use a better weapon.")
200 - for the intentional death of a woman with a gun or knife.
150 - for the loss of a hand.
150 - for the loss of a leg.
10 - for the loss of a front tooth, ("Because it is bad for a man's appearange.")
5 - for the loss of a rear tooth.

577 According to this 'aqila, the "good man" is the "good Muslim"
771 who observes the pillars of Islam (fasting, praying, making
183 the pilgrimage, and alms-giving). Also, the "good man" does not steal or lie, and this leads, importantly enough, to social accord.

121 In light of the preceding discussion of authority and
681 law, we can now offer a description of the Bedouin judicial process in action. Southall (1956:121-151) has drawn the
121 distinction between internal and external delicts on the
681 bases of kinds of sanctions rendered, and whether or not
114 chiefly authority mediates conflict. Such a distinction can be only partially applied in the case of the Bedouins of the Western Desert. The kind of sanctions operating in the internal political system do differ from those applied in the external political system, though not to the same degree which is true
121 of Southall's Alurland. On the other hand, since Bedouin
681 society, lacking political centralization, cannot be character-
692 ized as a segmentary state with distinct spheres of authority
642 at successive levels of the lineage structure, the intervention or non-intervention of chiefly adjudication and decision-making cannot serve as a basis for differentiating political
* [613] action. Rather, the lone political office of the 'aqila
• [627] involves itself in all arbitration which cannot be successfully concluded by the mechanism of familial authority. There are
[648] just two exceptions which apply to this latter statement:

554 571 556 tional symbol of wealth. A comparison of wealth between the "status group" and "other members" of al-Qasr, and the picture of stratification which emerges, are shown on Table 6.

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TABLE 6

COMPARATIVE DATA ON SOCIO-ECONOMIC STRATIFICATION IN AL-QASR[1]

Average Per Person	Status Group	Others
OLIVE - trees	661	86
SHEEP - head	402	30
LAND - acres	91	5

554 571 •627 *613 One most important way of accruing "status honor" in al-Qasr is by acting the part of the third party in conflict situations. The role of the third party represents an effective and acceptable way of bypassing formal litigation through the [778] office of 'aqila. For instance, by mediating through the process of **nazaala**, the third party prevents feuds.

[114] [128] [1]This data is both approximate and partial. Some data are excellent and completely reliable, others are not so dependable. Factors which could conceivably change the picture here presented would be a count of land and animals outside al-Qasr which would be extremely difficult to obtain. Also, some land is not in the name of the owner but in the names of relatives. Of all the data, land data is the most unreliable. Nevertheless, the addition of new data, I feel, would only serve to substantiate the picture of socio-economic stratification shown here.

554 process of nazaala, the third party prevents feuds. In this
571 sense, the third party is a legitimate moral and political
• 629 influence, but not formalized to the degree as that of the
* [613] 'aqila. A discussion of the authority structure in al-Qasr, then, requires that the allocation of authoritative action in terms of the loci, or roles, of political influence be designated.

[092] The central place of the third party role in the Bedouin political structure is manifested in the many laudable terms which refer to it: rajal khair ("good man") is the most general and often used referent; rajal saalih ("pious man") refers almost always to a "holy man," a specialized role in al-Qasr; quwaal al-khair ("the speaker of good"); and fa'aal al-khair or 'amaal al-khair ("the doer of good"). The latter three roles are approximately equivalent to that of rajal khair, though some informants argued that rajal khair is especially designated because he mediates quarrels while the fa'aal al-khair or 'amaal al-khair help a man when he is in financial difficulties.

554 The functioning of the third party in conflict media-
571 tion is formal to the degree that two parties agree on his
629 intervention and to abide by his decision; but the structuring
* 613 of the third party is informal by comparison with the in-
182 stitutionalized role of 'aqila. However, the existence of the third party role, and its various expressions in al-Qasr

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571 politics, and the fact that it is differentiated from the
• 627 role of 'aqila, are the bases for conceptualizing a structural
*613 division of political duties and authority distribution.
[182]

554 Role differentiation in the authority structure may be
591 discussed from two points of view: the degree of difference between authoritative decision-making roles and the other roles, and, the way in which one authoritative role differs from another. These refer to the different degrees of specialization characterized by any one role as compared to another. I have already discussed the way in which the role of 'aqila differs from other social roles (such as the kinship roles) in the authority structure of al-Qasr. In the following
[128] discussion, I focus on role differentiation in the non-institutionalized aspect of the authority structure, on power and influence.

Societies differ from culture to culture in the complexity of role differentiation. Within any one culture it
554 may differ from social domain to social domain. The political
571 system in al-Qasr is from this point of view structurally
627 simple, the assignment of duties in the traditional authority
*[613] structure being divided between the 'aqila and the third party. What legitimate influence is possessed by the third party is derivative from the "status honor" of its members. The
[792] exception to this is the rajal saalih who derives his power or influence as a result of his special relationship with God.

554 Thus within the "status group" a difference exists between
571 those members whose power might be considered "secular" (i.e.
• 627 the rajal khair), and those whose power might be considered "sacred" (i.e. the rajal saalih). Their right to mediate and to overseer the execution of decisions binding on parties to conflict derives from this status. In a way, authority role patterns may be seen to overlap, and the "status group" impinges on the legitimate authority of the 'aqila by virtue of the fact that they are, for one reason or another, his status equals inside and outside the political structure.

554 This structural division of political duties for
571 dealing with conflict corresponds to Eisenstadt's (1965:30)
182 differentiation of roles in terms of degrees of institutional-
• 613 ization. The role of 'aqila is present and enduring in each tertiary authority group. There is an incumbent who can be pointed out. His rights and privileges are circumscribed, and his duties and obligations are well defined: the power of the 'aqila role is limited by the very fact that it is

554 institutionalized. The role of the third party, or the
571 mediator in Bedouin society, is less institutionalized, and
182 therefore, less structured and less confining with respect to
627 the kind and amount of influence which the role-player might exert.

The role of the rajal khair, and this implies reference to all third parties, carries with it power. When power is

554 When power is
571 institutionalized, such as it is in the role of 'aqila, it
182 becomes authority. This is the Weberian notion of power and
*[613] authority which has been used by Bohannan (1958) for an analysis of, what he refers to as, "extra-processual events." "Extra-processual events" refers to the operation of power in everyday social relationships, whenever some people make others do what they want them to do. In other words, possessors of "status honor" are also possessors of power, and, I would claim, by virtue of this, such people are recruited into decision-making roles. Not only do members of the "status group" manipulate others in everyday dyadic social relationships, but, more importantly, in the context of conflict control they are able to dominate in political triadic relationships. Furthermore, since they are not structurally bound in their decision-making role, i.e., they operate across group and lineage lines, they accrue even more power and widen their power-base or support structure. What is highlighted in this kind of political role analysis is the fact that different individuals play the game of power politcs in various ways, and with varying degrees of success. In the next chapter, (128) I will bring out this very point by presenting a case study of one such role-player.

554 When we contrast the roles of 'aqila and rajal khair,
571 we are defining a political role-set. In an attempt to dif-
*613 ferentiate between the two roles further than we already have,
•627

554 and to clarify the concept of political role structure for
571 al-Qasr, we may make the useful analytical distinction between
*613 an "arbitrator" and a "mediator." George Simmel (Wolff 1950),
•627 in his discussion of the sociological significance of the third element, i.e. "the triad," notes the important difference between the "mediator" who only guides "the process of coming to terms," and the "arbitrator" who "ends up by taking sides" (1950:146-149). In the process of mediation, the termination of conflict is in the hands of the parties themselves, and there is no final authority to which one may appeal. In the process of arbitration, the 'aqila may, after deciding that mediation has been unsuccessful, impose his will over the wills of the litigants and appeal to the rawaabit as the final authority. The mediator attempts to reduce "will" to "understanding" (Simmel 1950:148). Mediation may be considered an initial stage of most Bedouin judicial processes; thus the mediating and arbitrating attributes of political authority are not always separate, as in the role of 'aqila. In so far as the regulation of conflict is a political mechanism for the reduction of strain, then ". . . the existence of the third element serves the perpetuation of the group" (1950:152).

554 The rajal khair and the "status group" in al-Qasr have
571 much in common with Evans-Pritchard's tut role in Nuer
627 society (1940:178-183).

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> A tut in this rather wide sense of 'man of good standing,' or 'social leader' is usually a scion of an important lineage, the head of his own family, and master of his homestead and herd . . . (His) authority is never formalized. He has no defined status (i.e. specifically delimited position), powers, or sphere of leadership . . . Beyond his domestic groups a tut has authority in his village only in the sense that he takes a prominent part in questions of procedure and other discussions.

The non-institutionalized third party role in al-Qasr has power and influence in political affairs, and this condition arises from certain structural features and economic facts about Bedouin society. In a word, outside the lone formal role of 'aqila, a person's political influence is directly related to the traditional influence which attaches to his family, or to his economic status. In all cases, the person of "good" family and sufficient wealth has a high status on the social prestige scale of al-Qasr. The people who have high esteem do not have prescribed roles to play in al-Qasr, but their roles are indeed important. Furthermore, the rajal khair role can be just as important as any political role which is prescribed, and it may even become more important.

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Besides the 'aqila and the third party, there exists two external but related roles which form part of the total system of Bedouin authority. The roles of 'umda and shaikh represent institutionalized offices. They function, however, more as structural aspects of the Egyptian governmental authority structure. Of course, no complete separation between the two structures can be claimed. It is recognized

554 571 177 that these officers, as representatives of the Bedouin, must figure in both structures. Therefore, we must understand and explain the relationship between the two sets of roles extant in the Bedouin total political structure, one set pertaining to the traditional authority structure and the other to the relatively new legal authority structure of the nation state.

554 571 The one factor common to all Bedouins in politically influential roles is that they possess a high degree of "status honor," and thus belong to the "status group" of al-Qasr. The "status group" is responsible for political order in al-Qasr and the political links which it maintains with other systems, Bedouin and Egyptian. Bedouins say that responsible action in conflict control belongs to one who knows how to give a man his rights while maintaining the honor of both parties; at the ideal level, it is the duty of all to do this. The fact that the power group and "the rich" comprise two coterminous groups is accidental and even incidental to the Bedouins. In theory, there could be a person of low economic status but who would belong to the "status group" simply as a result of his ability to mediate.

* [613] [177] The authority of the 'aqila and the governmental offices of 'umda and shaikh are legitimate only where formal litigation is concerned. Beyond this, they may have influence, not legitimate authority, and in this case, they switch roles and operate as a rajal khair.

• [627]

554 571 and operate as a rajal khair.

There are two primary types of political roles in al-Qasr, the traditional and the modern legal. Modern legal political roles have been decreed from above by the government. The traditional roles of 'aqila and "third party" represent autochthonous roles emerging from Bedouin social and cultural structures. Bedouin traditional roles correspond to Weber's ideal-type "traditional authority" which is based upon "piety for what actually, allegedly, or presumably has always existed" (Gerth and Mills 1946:296). The role of 'aqila is "traditional" rather than "legal" despite its fully institutionalized status. The relatively modern roles of 'umda and shaikh are what I term here "legal"; these offices are not, nor did any of my informants consider them to be, roles natural in the Bedouin political system. The legitimacy of these roles stems from, what Weber called, "legal authority" in which "submission . . . is based upon an impersonal bond to the generally defined and functional duty of office". (1946:299). In this case, the norms to which conformity is demanded are not those espoused by the 'aqila or the "third party," but are established by national governmental decrees and regulations.

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128 In the remaining part of this chapter, the attempt is to show two things which I consider essential to an understanding of Bedouin political structure and a perspective of

128 Bedouin culture change: how the Bedouins perceive their authority structure, and how political authorities relate to members of the political system.

Traditional Roles

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The authority and role of the 'aqila has been discussed so that I can devote attention to the "third party" roles in this section. No formalized document exists to stipulate the rights and duties of the "third party," such as exists for the 'aqila in the form of the rawaabit al-'awaaqil. Nevertheless, Bedouin litigants have certain expectations of a rajal khair when he mediates in a case of conflict. Before a rajal khair agrees to take part in the judicial process, the disputants make it explicit that they will accept his decision as final and binding. Such an agreement is not put into writing. On the other hand, a rajal khair can intervene into a dispute on his own. In so doing, he may gain in prestige relative to the manner and degree of success with which he handles the problem. By saving face for both parties in the quarrel, by cajoling an ingratiating attitude from both parties, the rajal khair may reinforce or augment his "status honor" and his local following.

*[613] A person occupying the office of 'aqila can participate in the process of conflict regulation as a rajal khair. We noted that this is a case of role-switching. It is conceivable

554 571 629 613 then that the 'aqila can increase his prestige and status beyond the limits of his formal role. When he does take the role of rajal khair, he does so only in conflict cases involving two lineages other than his own. Where any member of his own lineage is concerned, an incumbent 'aqila cannot be considered a neutral "third party" which is a prerequisite of this role. This factor constitutes a limit on the power of the 'aqila.

One 'aqila explained the relationship between the rajal khair and 'aqila roles in this way: "The two are equal. The 'aqila is responsible for one bait, but the rajal khair solves any problem in any place, for any bait. He goes to them or they come to him. I am, for instance, responsible for the members of Bait 'Umar, but it is quite possible that any other bait can ask for my advice in a problem. And so I go as a rajal khair."

In a general sense, the office of the 'aqila represents an ideal, while the real aspects of conflict regulation in al-Qasr center around the role of the "third party." In fact, many of the cases formally handled by the 'aqila afterwards undergo readjustment, as it were, by a rajal khair. 554 571 629 This is done by the rajal khair's suggesting a "more reasonable" settlement which is agreeable to both sides. For example, in a case of conflict over water rights the following was reported: "The 'awaqil passed the judgement that they should pay a

554 dhabiiha and 10 L.E. But Hajj 'Ali intervened and did not
571 let them pay the fine. Instead, he had them write a paper
627 declaring that should they reopen this matter, they would have to pay the old fine plus a new fine of the same amount." Simmel (Wolff 1950) notes that the mediator saves group unity through his "intellectuality," but that he is also an exploiter of the situation. It is obvious that Hajj 'Ali could have increased his "status honor" in the eyes of both parties to this conflict. The rajal khair who is facile enough to salvage the honor of both parties in a dispute increases his chances for future mediation and, hence, the chance to further augment his "status honor." The minimal fine involved in most of Bedouin litigation indicates a concern, not with punishment per se, but with "taking one's rights" and lawful share of honor. Social harmony is viewed in terms of an equitable distribution of honor. The power which a rajal khair has over litigants, which derives from his status in the social structure, contributes to this social harmony necessary for the persistence of the community.

554 The Bedouins say that one goes to the rajal khair,
571 or rajal salih, because he knows that he will "get his
627 rights." Litigation is entered into with the understanding
829 that neither party will emerge a "loser." On the other hand,
[691] the 'aqila, who is expected to be dispassionate and totally
* [613] objective, must rule on the rightness or wrongness of an act;

554 hence the rajal khair represents a face-saving mechanicsm
571 and an alternative which is needed. The rajal khair may even
627 violate group norms in acting to restore the balance of
829 honor: he may lie with intent to deceive, behavior which at
613 any other time would be considered "wrong" by the Bedouin.
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An informant said that

539 the real rajal khair is a man who goes to men in a quarrel and asks them to be on good terms and to avoid the devil. He uses good judgement in quarrels. In this case, he may even have to lie. He goes to both parties and listens to them insult each other, but when he returns he tells each that the other is a good man and wishes to settle the quarrel. He tells them: 'Do not let the devil interfere.' He tells each that the other wants his friendship.

554 I pursued the detail that a rajal khair may lie to restore
571 peace, since other informants had made a point of this. My
577 informant then explained:
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539 I don't want to commit myself because no one knows if the rajal khair is really lying; the men at the time of the quarrel do not know that he is lying. Not all men are rajal khair: there are only a few. The rajal khair puts himself in trouble to help others, therefore, the people do not want to harm him (by thinking ill of him). The rajal khair must be a good man and help others, and he always speaks the truth. He lies but he is doing good, and the people do not want to harm him. When the rajal khair lies, a man does not lose his rights. A man tells the rajal khair this; he tells him that he does not want to lose his rights, and he does not care what he says as long as he does not lose his rights.

554 571 *613 •627 [539] One 'aqila, who is famous for the sharpness of his tongue in dealing with litigants, was explicit about the authority of the rajal khair as compared to his own in matters of conflict regulation:

> Both are one (i.e. the 'aqila and the rajal khair), for the rajal khair can also finish a problem. The rajal khair tries to solve the problem, but only the 'aqila judges (yahkum). The rajal khair worries about the feelings of the two men involved, but the 'aqila cares only about justice and what is right . . . The rajal khair does not want the two men to lose one another. It is a friendly way to solve problems.

554 571 627 829 *613 Bedouins of low status in al-Qasr who are economically linked to the rajal khair in what resembles a patron-client relationship permit this fact to influence their own interpretation of the authority structure. A common view of the 'aqila's formal authority indicates that the Bedouins themselves are conscious of a structural comparison of political roles, but not of the underlying economic conditioners at work.

[539] There are good men and there are bad men: the rajal khair is the opposite of a bad man. The rajal khair is not responsible for his group, but the 'aqila is. The 'aqila is chosen from among the elders of the bait so that he is not always a good man. But when they want a man to solve problems, they get him from among the rajal khair. The 'aqila is responsible before the 'umda and shaikh, and he is responsible for collecting and receiving the diya.

554 571 627 182 The rajal khair represents a vital element in Bedouin society. He is a symbol of security, the man to whom one

554 turns in times of need dealing with financial and personal
571 problems. In view of the value stress which the Bedouins
•627 place upon generosity, manifest in the redistributive system
182 of the lineage, the wealth of the rajal khair is the wealth
[181] of the community. Wealth divides, not only possessors from
[556] non-possessors, but also, seekers after security from power seekers. It is as Peters (1965:145) has noted in Cyrenaica: generosity, not being entirely altruistic, wins repute and repute is an important aspect of political power.

554 In an interview concerning the justice of blood-
682 revenge, there was general agreement that if a man kills
627 intentionally, then blood-revenge must be taken by the
*613 murdered man's bait against someone in the murderer's aiela.
829 But one prominent man (a rajal khair) protested that "the best man in the killer's family must not be harmed." This statement generated a rather heated debate. One man said: "The best man should be killed for this is right in the Bedouin type of justice." (This comment was made by a man who is the 'aqila of a low-status lineage in al-Qasr.) The first speaker's reply to the protest was this:

> Nevertheless, it all depends upon the character of the best man . . . if he is evil and on bad terms with your family, then he will be the first one to be killed. But if he is a good man, then you kill the murderer himself . . . You must never kill a rajal khair because he may do good in the future.
> [178] In the old days, the killing started right away, and all problems were big ones: today there is negotiation--people are improving.

554 One 'aqila claimed that the rajal khair is a person
•627 who shares in his own authority and presides when he is
*613 away, but he separated the "rights" of the two roles. The
[779] 'aqila is able to force two parties in conflict to read the
[578] Fatiha, the first sura of the Quran, in order to terminate
the problem; this is beyond the rights of the rajal khair whose
influence is not directly supported by sacred sanctions. But
[784] the role of rajal khair does have its "sacred" aspects, for
all Bedouins know that "you should never harm a rajal khair
or God will punish you for this." I never heard this same
thing said about the 'aqila.

554 Historically, it was perhaps the case that the rajal
627 khair was the person of high status who represented the authority
*613 of an absent 'aqila. The role never became institutionalized
182 but functioned as a support and substitute role in a structure
dominated by that of the 'aqila. In a segmentary society
627 where the various structures exist in opposition to one
628 another, it is important that an institution, such as a third
182 non-partisan element, exists to facilitate communication
578 between parties for the purposes of conflict regulation.
Besides the rajal khair, an example of this would be the
traditional case of the wife from an outside tribe who alone
was permitted freedom of passage between the two warring
parties. Her purpose, it was assumed, was that of peace-making.

554 The rajal khair, then, is a broker in social relation-
571 ships, a manipulator of loyalties. As a member of the "status
627 group," he can afford to spend time and money in courting his fellow tribesmen, and, as a result, can accrue prestige and loyalty. This role, like that of the 'aqila, is a secular
[681] one. The sanctions which it controls are as economical as those of the 'aqila's are political. In this sense, they are differentiated from the role of rajal saalih whose sanctions are sacred in nature.

554 The traditional role which we define as that of the
792 rajal saalih, "the holy man," was probably much more important
[178] in the past than it is today. In al-Qasr, there are only two rajal saalih who share in traditional power: the one is a resident of al-Qasr proper, and the other, a member of the prestigious Sanusi family, lives near Marsa Matruh.

The rajal saalih of al-Qasr, i.e. the local "holy man," is assured of status because he is an ashraf, one who claims descent from the family of the Prophet. He is also a
[561] member of the elder age-set, and while he is not rich, he cannot be considered poor. Though the "holy man" al-Sanusi
[793] lives near Matruh, he participates in the authority structure of al-Qasr and is a member of the "status group." He is sometimes referred to as rajal saalih kabir, "a great holy man," by virtue of his Sanusi heritage.

[771] The relative unimportance of this role as compared to that of the rajal khair in conflict regulation is a function

554 of the Bedouin attitude, or lack of it, toward religion.
792 Since the time of Muhammad, the Bedouins have been considered
771 notoriously bad Muslims. Today, the Bedouins tend to joke about their lack of zeal, and often point out that "holy men" are not to be trusted.[2] This is seen in Sa'adi behavior
619 toward the Marabtin tribes who are their vassals. Theoretically,
771 the Marabtin who trace descent to the Prophet and might be
792 considered "sacred Tribes" should be respected by the "secular"
554 Sa'adi tribes. But the Sa'adi of al-Qasr tend to deride the
[778] Marabit. For instance, the "holy man" of al-Qasr, 'Amm Salih,
554 is a Marabit and well-known for his ability to successfully
792 mediate in conflict situations. But one informant, pointing
•627 out this gift which 'Amm Salih possesses, said: "Amm Salih
619 is a good man, he is not a Marabit." But 'Amm Salih identifies himself as a "rajal saalih" and a "Marabit"; he sees no role conflict here.

771 The Bedouins also joke about the manner in which they
[522] practice the "pillars of Islam." Especially, they make light of the fact that they are irregular in mosque attendance. They say, with a slight smile, "we pray in the desert." A
[124] common way for an interview to end was by an informant rising and saying: "Now I must wash for prayers." This happened

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[184] [2]Professor Abou-Zeid also notes this trait in his study of the Bedouin near Sallum, on the Libyan border (1966:248).

554 [571] [198] It is interesting to note that Hajj 'Ali is one of the most powerful members of the "status group" in al-Qasr. He is also a leading proponent of social change and a critic of the old way of life which includes belief in magic. One can [792] see how 'Amm Salih's influence and status might work in other areas of social action.

554 792 627 [695] [691] * [613] [829] Although it is conceivable that a rajal salih can be asked to intervene in any type of conflict, it is more likely that he will preside at cases involving marriage and divorce. The rajal saalih may also be asked to serve as a witness or consultant in litigation cases. The Bedouins point out that the "holy man," like the rajal khair, is apt to be more trustworthy than the formal authority, the 'aqila.

> Sanusi is a good man and the people should listen to him. He is a rajal khair, a rajal saalih, not an 'aqila. He is better than an 'aqila--he is our brother. He is much better than the 'umda because he never changes the truth. The 'umda may go and accuse me wrongly to the government but Sanusi would never do this.

554 792 It is, of course, difficult to decide whether Sanusi's charisma stems from the fact that he is a rajal salih, or the facts of his wealth and family. Most probably it is a little of both, the sacred as well as the secular. 'Amm Salih, on the other hand, is neither wealthy nor from a particularly prestigious family by economic standards of al-Qasr: he derives his influence and status from the sacred aspects of

554 792 his role.

The people of al-Qasr identify 'Amm Salih as the "holy man" in the area. In my interviews, when I asked for [124] [627] the name of a party, besides the 'aqila, who solves the Bedouins' problems, the answer was either Hajj 'Ali, the rajal khair, or "the Jaraira family." (This refers to 'Amm Salih and his brother.) When I asked for the name of a man who could tell me "how the Bedouin should act," the only name mentioned was that of 'Amm Salih.

554 792 627 'Amm Salih says that he solves many problems, not all of which deal with marriage and divorce. He claimed that he could settle conflicts over land and water. Just as a man may choose to go to the rajal khair, so also might he go to the rajal salih. Often enough, the selection of a "third party" will be determined by his propinquity. One 'aqila told me: "Salih Jaraira is a good man . . . If two men wish to accept Jaraira's decision, and if he lives near them, it is all right. If Jaraira cannot solve the problem, then they [613] [571] will return to the 'aqila. The 'aqila can solve it or he can call in other 'awaqil who can solve it."

[114] When I asked 'Amm Salih for case studies of problems which he has handled, he said that he would not reveal them because they are private affairs. He was willing, however, to describe the method in which he solves a problem.

554 792 627 [779] Suppose the donkey of A (a man present at the interview) gets into the barley of B (another man present). This is actually a serious matter since it could conceivably lead to a big fight between A's 'aiela and B's 'aiela. First, I separate them and make each go to his home. Then I get A's three brothers (his father is dead), we take a dhabiiha (lamb) and go to B's place and all eat together. After the meal, we read the Fatiha (opening sura of the Quran) together to show that all is forgiven. After the Fatiha has been read no trouble will start because this is done in the presence of the Jaraira.

[784] He explained that reading the Fatiha in bad faith would bring the same curse from God that a bad oath would bring. He also * [613] claimed that only he and the 'aqila have the authority to command men to read the Fatiha.

554 792 627 671 / 'Amm Salih says that he uses the 'awaiyid as a guide in solving problems, and that it is necessary because "quarrels spread like fire, it is like fire; they spread to killing and war." He was the only person in al-Qasr who

554 792 627 671 779 577 [784] tried to conceptualize the difference between the 'awaiyid Awlad 'Ali and the Sharii'a. 'Amm Salih said that it is wrong to lie, according to both the secular and the sacred authority codes: "One who lies exceeds the word of God, and God will punish him for this. No one can know how this punishment will take place, only God will know this . . . Sometimes a car goes off the road and people will say that it is the punishment of God. But you never know because the

554 792 627 577 punishment of God comes in the after-life." I asked him: "If this is so, why may the rajal khair lie in trying to settle quarrels?" He replied:

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> Lying is bad (haram), but this is "the lie of a peace-maker" (kadhib musaalih). For instance, if you have a quarrel with Yunis here, then I have words with both of you. I use different words with each of you. I use different words than those which you used in the quarrel--I use good words. This is to bring you two together again. Maybe I see that you are going to kill, or I hear bad words from you; I do not go and tell him what you said.

'Amm Salih said that it is his "duty" to mediate disputes, and that he never hesitates "because God will reward me later." He did not want the quarrels to grow into wars. He also bases his pleas for conciliation upon moral discoure, the method used by the other traditional authorities.[3] 'Amm Salih said that in trying to solve a problem, "I give priority to the elder. I go to the younger man and tell him that he should make peace with the elder because no one cares more for him than his antagonist, and that he really cares more for his antagonist than for any other." The rajal saalih mediates but does not arbitrate: he attempts to redress the balance of good relations but does not impose judgements.

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This approach to conflict regulation is not that of the 'aqila in his formal role, but it is similar to what the rajal khair would use. The main procedural difference between the two informal roles (i.e. rajal khair and rajal saalih) is that, in each case, the rajal saalih reads the Fatiha with

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[3] The approach which I used in my interviews with 'Amm Salih derives from the work of John Ladd as presented in his book, The Structure of a Moral Code, 1957.

554 792 627 *613 779 the disputants. As noted, the rajal saalih shares this right with the 'aqila. The rajal khair does not have recourse to this mechanism which amounts to divine approval of the binding decision of the "third party." 'Amm Salih in his discussion of the Bedouin moral code corroborated this point: "Any 'aqila can read the Fatiha. In this way, he and the two parties involved terminate the quarrel. This is a way to show that all agree on the settlement. Originally, only the rajal saalih did this, but now the 'awaaqil do it in all cases." It would be interesting to know if in Cyrenaica both roles perform this function or if it belongs only to the role of rajal salih.

554 184 627 792 *613 I cannot generalize concerning this role for the whole of the Western Desert. Sayyid al-Sanusi and 'Amm Salih seem to be special men. On the other hand, the 'aqila and the rajal khair are roles which we would expect to find all over the desert, and in Libya also. The 'aqila is the focus of institutionalized traditional authority structure, and the rajal khair and "status group" represent the power structure.

554 121 This attempt to differentiate between authority and power is essentially one which deals with the more general problem of leadership. Any study of the structure of authority must have reference to the notion of leadership. Role analysis seems the best method of dealing with leaders and their functions. Role analysis together with the conceptualization of institution as a process is an adequate way of dealing with the tendency

634 no coincidence, then, that the present 'umda and shaikh are
*613 the sons of the former 'umda and shaikh. This reveals not
666 only the structural rules of succession, but also indicates
428 that "social honor," and thus power, still resides with these
[578] families.

It is important to note that since the time of their
[178] inception, these roles have not changed 'aiela or even bait
in al-Qasr. When the former 'umda from 'Ailit Lazumi died,
634 his eldest son petitioned to the 'awaaqil of the 'Aishaibat
*613 that he be approved to succeed to his father's position.
666 The 'awaaqil met and made their decision. One 'aqila who
428 was present at the election said: "The office of 'umda should
571 stay in the Lazumi family since the father was 'umda. The
'awaaqil agreed on the son. But the son will be accepted to
follow his father only if he is good. If he is not good, the
'awaaqil will find a new bait." Although the Bedouins speak
of "the 'awaaqil" electing the 'umda, it must be remembered
that it is the "status group" which makes the decision, and
that the 'awaaqil are only part of this group. The names of
• [629] the men who elected the present 'umda include less 'awaaqil
and more rajal khair.

114 Before I arrived in the field, the present acting
634 'umda of the 'Aishaibat tribe was elected to the national
666 parliament to represent the province of Marsa Matruh. The
election of his replacement was not scheduled to take place

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structured situation the traditional authority structure would have disappeared from the scene.

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But, there is a struggle for authority recognition going on in al-Qasr. It is related to the change from the old basis of traditional authority to a new basis of legal authority. At the heart of this struggle is the role of the rajal khair. The rajal khair has a firm public basis for establishing himself in an authoritative and representative role. Traditionally, the rajal khair has faced inward and outward: he has used his ascribed position on the al-Qasr prestige scale to augment his status and influence, and, at the same time, his economic rationality has oriented him toward Marsa Matruh. In the present stage of culture change, the rajal khair is in a position to combine his ascribed and achieved attributes to gain entrance to a new reference group, the Egyptian bureaucracy. This offers him a new kind of prestige as well as affording him new opportunities for power, and even authority, over his fellow Bedouins.

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The rajal khair, in view of his movement between the old and new in Egypt, maintains a tertium quid status in two camps. While he has one foot in the traditional community because of his role in conflict regulation and the manipulation of traditional values, the rajal khair also has a foot in the

178 554 •627 modern camp. He has been able to enter into dialogue with modernizing agents because his intra-tribal "status honor" renders him public recognition at the institutional level, and because his worldly style of life allows him to, in part, identify with a modern reference group.

554 178 634 *613 The 'aqila and the 'umda might be seen as the two extremes of a temporary and emerging authority structure for the Bedouin of al-Qasr: the traditional authority bound to the old moral order, and the modern legal authority identified wholly with an, as of yet, outside political and moral order.

[627] Ideally, it seems that only the rajal khair, who is neither an 'aqila nor an 'umda, is in the structural and ideological position to assume leadership and to guide the Bedouins during this period of culture change.

and political connections," with nation-oriented persons who operate at a national socio-cultural level of integration (1956:1075-1076).

Clifford Geertz (1960) has also examined the role of a "cultural broker" in Indonesia as an instance of "a vigorous, imaginative regional leadership, able to play a cultural middleman role between peasant and metropolitan life, and so create an effective juncture between traditional cultural patterns and modern ones" (1960:229). In the case of the Mexican "broker" described by Wolf, the major means of consolidating and obtaining power both at the regional and the national levels were through political channels. In the case of the Indonesian "broker," both religious and political channels are the means by which the local Muslim teacher, or kijaji, has obtained power: traditionally, he was a specialist in communication of Islam to the countryside, and today he has taken on the role of local party leader (Geertz 1960:230).

In al-Qasr, the rajal khair seems to be the Bedouin counterpart of the Mexican and Indonesian "broker." With a firm economic base in the local community, and with his ability to adopt new patterns of public behavior, i.e., "he knows how to speak to the Governor and public officials," the role of rajal khair provides the means for one to move upwards through political channels (Wolf 1956:1071). Within the context of a newly emerging authority system based upon the

121 554 627 557 structural principle of bureaucracy, the rajal khair lacking legitimacy in the traditional lineage-based system may envisage an authoritative role and increased chances to "improve his status through the judicious manipulation of social ties."

121 554 178 Leadership studies in the context of cultural change, such as those which deal with "broker" types, have important implications for a more general and fundamental theoretical problem: the role of the individual in culture and society. Radin, as early as 1927, Redfield (1960), Geertz (1960), Fallers (1964), and Mead (1964) have spoken of "primitive philosophers," "the hinge group," "the cultural brokers," "the new men," and "the evolutionary clusters." All terms have direct reference to role types constructed from the observation of individuals possessed of the ability and creativity to offer new ideas and methods of dealing with the pressing cultural problems of their times. The unitary goal of all these researchers was to understand culture change through a focus on the way in which the individual manipulates his cultural resources.

121 I would maintain that, especially in political analysis, the approach and focus of the researcher is directly related to his ontologic position concerning the concepts of culture and human nature. That is to say, whether or not the researcher believes that "man has no choice in life, that culture determines his behavior," then he will or will not find it relevant

121 tradition" and "the little tradition." The "little tradition" refers to peasant or folk culture, and the "great tradition" to a specialized and systematized body of thought which is, in most cases, esoteric, written, related to religion, and the property of an intellectual group (1960:40-59; 1962:302). Of course, Redfield's notion of a "literati" does not apply in the Bedouin case. But in an earlier work (1953:44) Redfield drew attention to the more general concept of "intelligentsia" which further refines the scope and types of leadership. Redfield refers to "the member of the intelligentsia . . . (who) belongs to two worlds, not one; he is a marginal man." He then goes on to differentiate between the "literati" type and the "intelligentsia" type, stating that the former type uses literacy to carry on the sacred tradition while the member of the "intelligentsia" may use literacy "to admit the ways of the world outside." While the rajal khair does not become the representative of the great and sacred tradition of Islam, he does utilize the bureaucratic means at hand to admit the outside world into al-Qasr. The rajal khair may be considered a member of an "intelligentsia."

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121 Gustave von Grunebaum (1962) has used Redfield's model of cultural dynamics to understand change and social mobility in the Arab World with special reference to Egypt. The author, an Islamicist, states that the "great tradition" of orthodox Islam in contrast to popular Islam is recognized as "the more

121 177 571 181 the values of a non-membership group in order to "find readier acceptance by that group and make an earlier adjustment to it" (Merton 1957:265). In a relatively closed society such as al-Qasr, when those who qualify for membership in other reference groups are able to do more than merely aspire, when they actually anticipate and adjust their behavior to a type of status consciously desired, the local authority and social structures are likely to be transformed.

121 571 554 We can generalize from the literature on social stratification that the hierarchial structure characteristic of traditional societies carries with it a relationship of mutual obligation. The "inferior" owes rent, respect, loyalty, obedience, etc., while the "superior" owes, in return, protection, advice, help in emergency, action in conflict regulation, representation in extralocal matters, etc. (Hagen 1962: 55-86; Parsons 1953: 108). In al-Qasr, the 'aqila fulfills

121 554 * [613] • [627] only one of the functions of the "superior," that which deals with conflict regulation. The rajal khair role, as I have developed it, may function in full capacity as a "superior."

121 554 627 The rajal khair dominates the internal system through power derived from rank on the prestige scale: he is prominent in the external system as member and representative of a new power structure based on national and political consciousness. Traditionally, rajal khair-dominance was not by force but through influence and prestige: in the new situation, with a

fully organized government behind the role, the element of force may enter into the rajal khair style of domination. Thus far, the 'umda and the shaikh roles have functioned through the traditional roles of the 'aqila and the rajal khair, that is, the "status group." In the future, this pattern may change. It is also possible that new roles will emerge. This is what I wish to explore.

The "status group" of al-Qasr operating with a sense of identity with a modern reference group deem themselves responsible for making decisions on the behalf of "the people" or "the Bedouin." Members of the "status group" would occasionally dress in Western clothes; they would hunt gazelle for sport; they owned the few autos there were in the area; and a few partook of alcoholic beverages. Their rights and obligations in social relations are still relatively stable and depend on the ascribed values of al-Qasr Bedouin society, but one can detect the start of a power struggle within the group. It is a competitive desire for social mobility and is stated in terms of the achieved attributes considered important by the reference group to which they aspire, the Egyptian society. For example, one sometimes heard the complaint from various members of the "status group" that the Governor was not giving proper recognition to those "who understood the ways of the Bedouin," and "those who could speak for the Bedouin."

156 with four wives. It is not hard to understand why the people
159 of al-Qasr consider Hajj 'Ali a rajal khair par excellence.
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•627 For instance, when I asked one man if he could give me some
124 examples of court cases, he replied: "The one who is not an 'aqila pays no attention to anything save getting food for his children. The rajal khair has money and men (a reference to the "old days" when a person needed cohorts for battle), and so he always pays instead of us. He lends us money and helps us in doing anything, like Hajj 'Ali does." In another
124 interview, one man showed great respect for Hajj 'Ali's tradi-
156 tional status and modern ability to deal with the outside
159 world by giving him the honorific title of "shaikh," and
554 showing that the Bedouins of al-Qasr put their trust in him:
439 "When the olive merchants come from Alexandria, they go to
412 Shaikh 'Ali, someone who knows about olives. They ask him
245 what kind of olives al-Qasr has. He shows the merchants, and they say: 'I will give you so much for them.' They make an agreement, and Hajj 'Ali collects the olives and gets the price for them."

156 In terms of local politics, I would guess, but do
159 not have data to prove, that Hajj 'Ali was the third party
554 most frequently referred to in seeking a termination of
[627] conflict. He was commonly asked to participate in these
[114] matters not only by the disputants themselves but also by the 'aqila or other third party presiding. He was sometimes

The concept of the court has been prominent in the writings of several other anthropologists besides Radcliffe-Brown and Hoebel. Bohannan (1957, 1964, 1965), Redfield (1964) and Pospisil (1958) all imply the existence of a court of some kind or another as the identifying mark of the existence of legal rules. In his attempt to distinguish between law and custom, Gluckman thought of law to exist "as a series of acceptable judgments of rightdoing and wrongdoing in particular cases" (1955:262). Custom and other social observances function as corpus juris and as such a basis for the judgment of where the behavior of one of the litigants in a case is reasonable or unreasonable, lawful or unlawful. As such, custom is a source of law, but not law itself. It becomes law when drawn upon in passing judgment in a given case. In commenting on a passage on the Nuer by Evans-Pritchard, Gluckman made it clear what he meant by the court. "This passage shows that even in a society where 'self-help' is the enforcing sanction, people judge situations of dispute in terms of rights and duties, and wrongs....Therefore, it seems fair to say that among the Nuer, though they have no courts, there is a process of judgment by mediators and ordinary people in which custom and morality as part of the corpus juris constitute 'sources of law' for particular decisions" (1955a:263).

The importance of the above passage from Gluckman is his distinction between the concept of the court and the judicial process, a distinction lacking in the writing of most other anthropologists dealing with the study of law. Failure to distinguish the two aspects of the legal system resulted in confusing a basic societal process with one of the mechanisms through which the goals of that process achieved in certain societies. In its broadest sense, the judicial process refers to the ways disputes are settled within society. Since didsputes arise out of the very nature of social interaction, some form of dispute settlement is found in all societies.

The form which the process of dispute settlement takes differs from one society to another. In certain societies disputes are settled through a process of informal mediation undertaken by go-betweens; in others it is by means of self-help; still in others, it is by way of court. In societies with courts the process of dispute settlements is undertaken by judges who "take and assess the evidence, examine what they regard as the facts, and come to a decision in favor of one party rather than another" (Gluckman 1965:183).

Within a given society, disputes are settled in accordance with a set of principles that reflect the basic goals and values of that society. As long as the settlement of a particular dispute proceeds according to these principles, the settlement is supported by the public opinion of that society. This is true whether the process is carried on b y means of informal mediations or through a court system. It is this public opinion as the expression of the basic societal values and not the court as a special mechanism that gives legitimation to the judicial decisions. To equate opinion with the court as Hoebel (1961) did, or to look at the court as the ultimate source of legitimation as did Radcliffe-Brown (1940) and others (Redfield 1964, Bohannan 1965), is to create an unnecessary confusion which tends to undermine meaningful cross-cultural comparisons. Whatever the differences among anthropologists with regard to the definition of the court, their main interest in the concept so far has been as a tool for the definition of law. The interest in the concept gave rise to a methodological approach which came to characterize the literature in legal anthropology, namely, the case-study approach, cases having been utilized in a number of ways by legal anthropologists. In their book on the Cheyenne, Llewellyn and Hoebel (1941) introduced the analysis of "the trouble case." This was followed by a number of studies utilizing the case study method either to

document statements concerning the substantive law of the society studied, or to abstract and elucidate that law. An example of the first technique is Howell's analysis of the Nuer court decisions (1954) where he collected a large number of court cases, cla-sified them and abstracted the substantive aspect of the native law. Gluckman's study of the Lozi (1955) represents the second technique. Smith and Roberts used the same method of case analysis to abstract certain principles of the Zuni law (1954), and Nader utilized it in her study of the Zapotecan law (1964). The list of those who utilized the case-study approach is quite extensive, and the range of the societies they studied is quite varied. But most of them share the interest in the substantive rather than in the procedural aspect of the law.

When referring to the procedural aspect of the law one should keep in mind the difference between the technical and the abstract components of procedural law. The first refers to the activities and steps involved in the settlement of disputes in the society as well as the person or body undertaking the responsibility of such settlement. The second involves a number of abstract principles reflecting the values of the society with regard to the goals of the judicial process, and which the judicial persons use as a guide in achieving a settlement or in passing a judgment of one kind or another. These are the bases of judicial reasoning. Although judicial reasoning represents one of the most interesting and important aspects of the judicial process, it attracted very little attention among legal anthropologists. With the exception of Gluckman and his analysis of the concept of "reasonable man" among the Lozi (1955a), no significant work has been done in this area. In dealing with the concept of the reasonable man, Gluckman was more interested in discovering universals in laws than in the process of judicial reasoning as such. He implied that an

element of reasonableness is a universal principle in any judicial logic. Nadel reacts to Gluckman's implication of the universality of the concept suggesting that it is valid only in certain contexts, and that the cases reported by Gluckman from which he abstracted that concept are minor ones. Nadel maintained that the principle seems inadequate in major crimes such as homicide, witchcraft or assault. "If I am right, the Lozi would, in these situations, discard their guiding fiction of 'reasonable man' for the sharper dichotomy of things simply lawful and unlawful, permitted and forbidden" (1956:162).

METHODOLOGY

One of the characteristics of legal anthropology is the absence of a coherent body of theory that could be utilized in the analysis and interpretation of the ethnographic data. What do exist, however, in the area of the ethnography of law are a variety of what may be called "tools of analysis." These are mainly methods and orientations which help to direct the researcher's attention to a certain area of behavior which describes best the phenomenon under study. Their main purpose is to help the researcher isolate particular portions of the phenomenon he is studying and as such enables him to conceptualize the problem. A number of these tools have been employed in the present study. One of these tools is Turner's "social drama" which was employed in the analysis of the political leadership and the judicial process. Since this approach depends upon the intimate knowledge of the sequential development of a given case, or cases, over a period of time, it was quite difficult to employ it in more than that particular context. As will be apparent in the later chapters, the judicial process among the group is highly informal. Most of the disputes are settled by means of mediation which is done behind the scene and with a great deal of secrecy.

from the process of dispute settlement; and the semi-nomadic nature of the population in the area. 114 123

The reliance on the case-study method and especially that of Turner's "social drama" which requires extensive and detailed knowledge of the sequential development of a number of cases over a long period of time proved to be a major task in a society where disputes are settled not in formal hearings, but by means of informal mediation and behind the scene negotiations. These activities covered a large area, and were shrouded in a great deal of secrecy. The assumption is that the parties involved in the dispute should be given the privacy and chance to arrive at an acceptable settlement without being conscious of or influenced by the opinion of non-interested parties. The public hearing, or the mi'ad, loves the announcement of the agreement arrived at in private. As will be seen later, very little factual information about the dispute is discussed in the mi'ad. No record is kept of either the discussion in the mi'ad or the preceding negotiations. The process of dispute settlement is, then, highly decentralized. To be able to follow one particular dispute involves the constant reliance on informants not only to acquaint the anthropologist with the places of negotiations, but also to fill the gaps in the information about the process of negotiation itself. 114 123 124 627 578

As a woman anthropologist, I found myself at a disadvantage in a society where women were excluded from public participation. It is true that from the very beginning of the field work I was never cast into the role of the native woman, yet, my position as a woman posed a certain number of problems. When I first arrived in the area, I made a deliberate effort not to identify with the native women. When it was suggested to me that the relatively short skirts I wore were not practical for riding donkeys 114 123 562

or walking in the strong winds characteristic of the area, and that the floor-length native dress would be more appropriate, I refused the advice for fear of being identified in the minds of the people with the natives, and thus being treated in the same way. The possibility of being identified with native women was not very strong, because from the very beginning I did not act like one. I did things and talked about things that native women had never done or talked about. I drove a car, read, and wrote, and talked about national and local politics. More important than that though, to the tribal population, was that I was a member of the bar association of Egypt, and that I had practiced law for a year in Cairo. Every time I was introduced, the fact that I was an attorney was made evident. This gave legitimacy to my interest in studying the tribal legal system, and in many ways they were flattered than an attorney, especially a woman city attorney, would be interested in their law. Yet, in native clothes or not, in the native female role or not, I was still a woman, and as such I was not part of any serious activity, especially those of dispute settlement. My mere presence in any part of the dispute settlement made the gathering seem somehow less serious. At the beginning of the field work a deliberate effort was made to keep me from knowing anything about the whereabouts of the negotiations or what was going on. I had to bribe men, women and children to tell me where the negotiations were taking place and who they involved, and then appear on the scene uninvited. This condition lasted for about two months. At that time the news of my presence in the area spread around, and I had attended many of the negotiations that men became less conscious of my presence. In fact, some even asked me to attend the meetings where some parts of the negotiations were conducted and give them my opinion as to the fairness of the settlement.

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Yet, even when the problem of role definition was solved, it was still difficult to follow closely all aspects and phases of any particular dispute. This was mainly the result of the semi-nomadic nature of the population. In settled communities, the anthropologist usually finds himself in the midst of the social life of the community. He might not be a part of it, but at least a major portion of it is happening around him. In the case of nomadic or semi-nomadic populations, the situation is different. There were no large tribal concentrations in the area. The largest residential unit was the camp, and it consisted of no more than thirteen tents which changed in composition quite rapidly. In one camp, out of the thirteen tents which were there when I joined, only six remained unchanged by the time I left three months later. Originally I had planned to stay in the small village of El-Hammam, which was believed to be in the tribal route of the major tribal segment in the area. It took me only a few weeks to realize that the tribal segments did not follow any definite migratory route, and for more than four weeks I saw nothing of the life of the group more than the few individuals who came occasionally to the small settlement to buy tea or sugar, or to catch the train to Alexandria. It was then that I decided to leave the settlement and live with the camp. My stay in the camp was very insightful as far as information about the daily activities of the camp members and the relationship between the camp and other tribal segments in the area. But the camp was a very small group and fairly isolated. Besides, there was no way of knowing how typical that camp was to the other camps in the area. I finally decided that the best strategy was to live with a number of camps in the surrounding area for relatively short periods of time, making my base of operation a relatively settled camp in close proximity to a number of other camps.

modern court system may be viewed as a form of appeal to the tribal justice. One has to be careful, however, in calling such a procedure an appeal, since the tribal proceedings have no relevance in the court proceedings.

The duality is more serious in criminal cases. When an act is defined as illegal by both the tribal and modern law, persons committing it come automatically under the jurisdiction of both laws. As long as such acts remain unknown to the police, the duality of procedures is not undertaken. This is possible in minor cases of assault or theft or adultery. But in major cases, such as homocide or serious assault resulting in the serious injury of a tribal member, it is difficult to keep the news a secret from the authorities. The funeral proceedings in the former cases and the medical attention needed in the latter cases are hard to conceal. Besides, serious cases start a whole series of mediations and go-betweens which always become the general knowledge in the entire area and the subject of conversation among the people. When the authorities know about such cases, they have to take immediate action to bring the offender to trial, even when the government authorities know that the tribal proceedings are being conducted in the case. Some attempts are made by both the tribal law and the modern law to minimize the effect of that duality. It is common that when the district attorney knows that a certain criminal case has been successfully solved according to the tribal proceedings, to ask for the minimum penalty for the offense. On the side of the tribal proceedings, once the case has been solved, the witnesses needed to testify for the prosecutor are instructed by their fellow tribesmen to refrain from giving the information

619 184 178 582 In recent years this has changed, however. The increased importance of wealth in the recently introduced money economy relaxed the endogamous tendency that was characteristic of the Sa'adi tribes.

619 184 In discussing the position of the Murabiteen tribes it is worth noting that not all the Murabiteen tribes in the area occupy the same position. Some enjoy relatively higher positions than the others. Actually, there are two kinds of Murabiteen in the area: Mustaqillen (independent Murabiteen); and the dependent Murabiteen. The latter are further subdivided into Murabiteen bil-baraka (with the blessing); and Murabiteen bil-sadaqa (with the tribute). The only independent Murabiteen in the area is the Gemei'at tribe. These are the original settlers [173] of the area. Because of their help to Awlad Ali against the Hanadi, the latter were defeated and Awlad Ali were able to occupy the Western Desert. For their part the Gemei'at tribe was granted its independence by Awlad Ali and were given one-third of the total area as their homeland (watan).

619 184 778 682 In theory, the Gemei'at tribe occupies the same position and has the same rights as the Sa'adi tribes, including the right to offer their protection which is denied to all other client groups. In practice, however, this seems to be of no practical value. None of my informants could remember a single case in which a murderer has taken refuge at a segment

619 778 184 682 of the Gemei'at tribe. The importance of the nazala is not merely to be safe from the pursuit of the victim's group but rather to provide the mediators who undertake the crucial task of negotiation on behalf of the murderer and his gorup. It is the ability to settle the dispute on a

629 628 permanent basis that offers the actual long-lasting protection, even after the time of the nazala expires. To be successful in his pursuit,

619 798 184 682 627 628 the negotiator has to have behind him the full weight of his tribal segment. Since the origin of the Gemei'at tribe as a Murabiteen tribe is well known, any negotiator has to rely almost entirely upon his own skill to affect any settlement; even if he is able to affect such a settlement, there is no guarantee that it will be permanent.

619 792 The Murabiteen bil-baraka and Murabiteen bil-sadaqa occupy the same position as vassal groups. The only difference between the two is that the first, the religious men, are much more respected than the latter. They are feared by the other tribes because of the belief that they have direct contact with the religious and spiritual world and can harm those who dare to offend them in one way or another. Because of this factor [627] [628] and of their neutral position with regard to the rest of the tribes, they play an important role in mediation and dispute settlement.

619 184 174 792 The origin of inferiority of the Murabiteen tribes in general is hard to account for. Kenneth (1925) believes that hundreds of years ago the Murabiteen were essentially the holymen. They learned to read and write the Qoraan and grouped themselves around the "zawias' which were the centers of learning and religion. While indulging in their religious practices their flocks ere grazed miles away in the open desert under the charge of the Sa'adi shepherds, who originally were the poor paid workers of the Murabiteen. These shepherds, living out in the open, were busy fighting away the raiders attempting to steal their flocks. As time passed the Sa'adi shepherds became not only tough fighters but also wealthy. This latter end was achieved partly as a result of successful raids on neighboring tribes. Later when the Sa'adi planned a large raid, they entrusted their flocks to the Murabiteen, who by that time had become dependent upon the Sa'adi for their protection from the raids of other tribes.

IN THE NAME OF GOD THE FORGIVER

613 675 539 The following Awaqil (sing. aqila, the leader of a bait) representing the various "buite" (sing. bait, the tribal segment below the level of eila) of the Aggary Family were witnesses to the treaty and their signatures signify their commitment and that of their respective buite to the content of this agreement.

(a list of the various awaqil)

The above signing awaqil agreed unanimously on the content of the document and all the conditions included. No objection by any of the above persons was noted at the meeting.

Article 1:
The content of this document should be kept as a secret of the Aggary Family. It constitutes the Aggary Amar in accordance with the customs and the Daraieb of Awlad Ali. The content of the document should be revealed only at the request of both parties of a dispute which involves a member of the Amar.

Article 2:
[627] Peace should exist between members of the Amar. No secret grudges or open disputes should be permitted between them. In case such an unfortunate situation exists, the other non-involved members of the Amar should intervene between the disputants, try to solve the dispute, and prevent it from damaging the solidarity of the Amar. They should investigate the facts of the case and force the guilty party to compensate his brother (the wronged party) without giving the former a chance to object.

Article 3:
[681] When the Amar is called upon because of obligation involving the payment of money, all the Awaqil should meet and decide the amount of money that should be collected from each Bait of the Aggary Family. It becomes then the responsibility of each Aqila to collect the amount from his Bait.

Article 4:
[68] [885] The share of each Bait is based upon the number of "Sayems", (literally, "fasting males", which is interpreted to mean 15 years of age or over), regardless of whether or not they have a source of income for themselves. The share of those without means of their own is distributed among the other members of the Bait.

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[885] Each Aqila is responsible for submitting to the Amar a list of the Sayems in his bait, and this will be the basis for establishing the share of the bait in payment or receipt of the money.

Article 5:

No Aqila can act on any matter involving loss or gain to the Amar without the presence of the other Awaqil of the Amar, unless an urgent matter occurs in which waiting for the rest of the Awaqil might jeopardize the interest of the Amar. In such cases the Awaqil present can act on behalf of the Amar as a whole.

Article 6:

[672] The following acts should not involve the Amar as a whole and the [673] offender is considered individually (or with his own Bait) responsible for them:

1. Theft and cheating.
2. Insult or disrespect of a younger member of the Amar to an older person whether from the Amar or not.
3. Entering someone's tent or home without permission.
4. Seduction of women (including rape and adultery).

[681] In all the above cases the individual has to bear the responsibility for his own actions. For to let the Amar pay for him in such circumstances is to encourage him and other such members of the Amar to commit more of such acts and bring disgrace to the Amar. If the offender is unable to pay for his crime, his nearest male kin should pay for him in accordance with the Awlad Ali Daraieb. Such payments are considered as personal debts which the offender has to pay back as soon as he is financially able.

Article 7:

[627] When an older person does injustice to a younger one, the latter should take his complaint to the Aqila of his own bait. The Aqila in turn should take the matter up with the Aqila of the older man or to all the awaqil of the Amar if the matter is serious enough. The awaqil must assess the facts and prevent the older man from doing any more injustice to the younger man and have the former compensate him for any damage he might have caused the younger man by his actions. If the awaqil fail to do this and if their failure resulted in the younger insulting or hurting the older, his acts become no longer an individual responsibility for which he has to pay alone, and the Amar should pay for him.

Article 8:

[627] No members of the Amar should take sides in disputes involving families or individuals outside the Amar unless the awaqil in the Amar investigate the matter and the reasons for the dispute and decide that the Amar as a whole should be on one side of the dispute or the other.

613 This makes it possible for those adopted by the tribe to keep in touch
563 with their relatives and friends they left behind in the Delta while en-
619 joying the military exemption gained from their adoption by the Awlad Ali population. It is also believed that Eilat Aggary, made up mostly of peasants themselves, are very lenient in the conditions they put for tribal adoption. Finally, the Eilat Aggary is not among the most powerful tribal segments of Awlad Ali, possibly because of their composition. This assures the adopted peasant groups an equal status not normally obtained if adopted by one of the powerful tribal segments of Awlad Ali.

613 The Amar paper of the Aggary explicitly states some of the basic
[615] characteristics of the Amar as a unit in the tribal organization of Awlad Ali. The most distinctive aspect of the Eila or the Amar as a political unit is the absence of any formalized leadership. Although the Amar is viewed by outsiders as a corporate group as far as its legal responsibility in certain cases, from the standpoint of its members, the Amar is no more than the sum total of its constiuent units or Baits. This is shown in the Amar paper of Aggary which states that matters affecting the Amar be decided upon by all the bait represented by their respective leaders, the awaqil. There is no formalized authority above the
613 awaqil, although one of the awaqil might acquire a position of informal
554 leadership by virtue of personal or other qualities. He will be con-
● 629 sidered as a mediator and go-between for the various leaders of the Baits. In the case of the Aggary, Sheihk Selouma, the Aqila of Bait Eweida, has acquired such a leadership among the Eilat Aggary. Although Shiehk Selouma is relatively young, (he is about 40 years old), he has the reputation of getting things done. His Bait is the wealthiest in the

His Bait is the wealthiest in the
613 Aggary and he himself has recently acquired a great amount of wealth,
554 mostly from smuggling goods across the Libyan borders. Because of his
627 position as a Government Sheihk, he is believed to have influencial con-
[556] nections in the government. He is the only member of the Aggary Amar
who has a car. He considers himself to be the spokesman of the Aggary
Family, and he is known to be able to persuade the reluctant awaqil to
conform to decisions made by the rest of the awaqil. In a number of in-
[682] stances he was able to collect bloodmoney from members of the Amar who
had previously refused to pay. Some people in the area believe that had
it not been for the persuasive abilities of Sheihk Selouma, the Aggary
Amar could never have persisted, and it would have long ago been divided
613 into smaller units due to the lack of agreement among its members. The
lack of formalized leadership of the Amar or the Eila makes consensus of
[675] extreme importance for the Amar. The emphasis on the unity of the Amar
[578] is stated in Article 2 and is implied in a number of other articles in
the Amar paper of Aggary. Disagreement among the awaqil is very rare al-
613 though not unknown in the area. The relative consensus among the awaqil
682 stems from the fact that the Amar as a group has a fairly limited function.
[182] Until very recently the only practical function of the Amar was the collec-
tion of money to pay for a murder committed by one of its members. Since
establishing the innocence or guilt of the accused is not the duty of the
Amar, once his guilt has been established, there is no question about
613 the payment. Disagreements are likely to occur in the case of new circum-
682 stances where money has to be paid, since payment in such cases are not
578 yet institutionalized, even when specified in a given Amar paper. This
000 has not yet become a major problem. If any disagreement between the

613 individuals. He settles disputes among them and represents them in their
[627] disputes with outsiders. He is also the spokesman of his Bait in all matters involving the relationship of the Bait with the other tribal seg-
[682] ments. He is responsible for the collection of the bloodmoney from members of his Bait and has the authority to confiscate property of individual members who refuse to pay their share. When a member is financially unable to pay his share, the Aqila is expected to pay for him and collect at a later time when the member is in a position to make such payment.

613 Originally the position of the Aqila was a hereditary one with the
428 position passing from father to son. However, in recent years the rigid-
178 ity of the patrilineal descent as the basis of succession to the position of the Aqila has been modified radically and other principles of selec-
613 tion have been introduced. The working of the principles underlying the
128 selection of the Aqila will be analyzed in detail in the following chapter through the close examination of one of the major legal cases which occurred during my stay in the area.

613 Thus each Bait is a division of one of the Eilas and this has its
[423] place in the formal tribal system. It constitutes a group with definite usufruct rights to land and a formally recognized leadership.

621 But the actual residential units in which Awlad Ali live are not
[613] baits but parts of them in the form of separate camps or "nagei". The camps constitute the primary communities of Awlad Ali. A camp consists
[594] of a number of tents ranging from four to twelve. Each tent is usually occupied by one nuclear family of a husband, his wife and children. In
[595] cases of polygynous marriages, each wife usually occupies one tent with
[361] her children. Each camp is separated from the next one by a distance which ranges from two to ten kilometers.

had started in the area at that time. No special permission was required for the newcomer to join the camp. He only got the permission of the person whose tent was at the far end of the camp to put his tent next to it. The first night after the man joined the camp, his next door neighbor slaughtered a goat in honor of the new member and invited all members of the camp.

Leaving the camp also does not require any permission, although the custom specifies that before one leaves he should inform either his neighbor or the headman of his time of departure. With the exception of cases where the headman of a particular camp is at the same time the Aqila of the bait, the headman of the camp has no authority over the members of the camp. He is usually called upon to solve minor problems between brothers or husband and wife, or give his opinion in decisions of minor importance. "A headman is like a father," said one informant, "we call him kabir el-nagi (the old man of the camp)." When a member of the nagei is involved in a serious dispute with another, the one to handle the case is the aqila or awaqil to whom the two disputing parties belong.

Group	Leadership	Identifying aspects
Kabila	None	Client groups attached.
Eila	None	Vengeance group, Vaguely defined tribal land ("watan").
Bait	Aqila	Corporate land-holding. Formally recognized leadership.
Nagei	Headman	Residential unit with unsegmented structure.

CHAPTER V

POLITICAL LEADERSHIP AND JUDICIAL PROCESS

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One of the most idstinguishing aspects of the legal system of Awlad Ali is the absence of any formalized judicial structure. Disputes are solved mainly through the mechanism of informal mediation rather than through formal hearings of a court during which the facts of each case are presented and judgment based on the facts is passed. This does not mean that formal hearings are not known on the area. For the "Mi'ad" or tribal hearing is a common and very important practice in the tribal proceedings. The Mi'ad, however, is not a tribal court. It is merely a gathering of all interested parties and anyone else who wished to attend, in which the agreement reached behind the scenes by means of negotiations are announced.

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The first Mi'ad I attended was held in the house of Sheikh Mughaieb, the Aqila (tribal leader) of bait Mughaieb of the Sanagrah tribal segment in the area of Hammam, 60 miles west of Alexandria. The case that was to be settled at the Mi'iad involved the assaulting of Sheikh Mughaieb ty two younger members of bait Daoud who lived in a nearby camp. The dispute started when Ali, the youngest brother (14 years old) of the two assailants, found a piece of iron in the desert. Suspecting that it was a mine, he took it away from the camp to the small garden in the backyard of Sheikh Mughaieb's house, surrounded it with dry weeds and set fire to it. The piece of iron was in fact a mine and it exploded, damaging the trees and a window on the Sheikh's property. At the sound of the explosion Sheikh Mughaieb rushed out and found the boy trying to run away from

628 683 613 [576] who was like a second father to them. He praised Sheikh Mughaieb for being understanding. He then said that Sheikh Mughaieb was very generous and that his sons had come to Mughaieb the day before and kissed the top of his head (an expression of respect for forgiveness). He said that no money, no matter how great, could erase the harm done by his sons but that he had offered to pay Sheikh Mughaieb the sum of 400 pounds as "kabara" or face-saving compensation. (The kabara will be discussed in a forthcoming chapter, but for the time being it is worth noting that the above amount is the maximum for such compensation since it equals the bloodmoney for a man). Then he turned to Sheikh Mughaieb and asked him to accept it in front of the respected guests. Sheikh Mughaieb then spoke for the first time and said that the two boys were like sons to him and that he had no hard feelings toward them anymore, since he believed that young people were sometimes carried away in their actions. He then proceeded to say that in honor of the honorable guests who took the time to attend the hearing he was forfeiting half the amount. At that time a woman brought the food the women were cooking for the gathering, and Sheikh Karim asked Mughaieb, "How about the honor of the good women of the house who have done all the work and cooked all the food? If you ask me, they deserve at least another hundred pounds." Mughaieb said, "All right, fifty pounds for the home of the women, but no more." After that Sheikh Karim paid the amount of a hundred and fifty pounds to Sheikh Mughaieb and shook hands with him. He also shook hands with the two young men who had assaulted him, and the gathering started the dinner and tea.

627 628 Not all Mi'ads in the area proveed with that smoothness. Many of them are characterized by shouting and arguments and frequently no

627 agreement is reached. In fact, later one of the people attending said
628 that my presence made everything run smoothly in that particular Mi'ad
[123] because they felt that they should show me how peaceful Awlad Ali were. This was mainly supported by my own observation of other Mi'ads, some of which are described later, where parties were less understanding of one another and where no forfeiting of any part of the compensation occurs. This is particularly true when the Mi'ad is held to acknowledge the failure of the negotiators to reach an acceptable agreement among the parties.
[681] This is also true when one of the parties to a dispute denies the charge and insists on not paying any kind of compensation. In such cases the Mi'ad is held to decide upon a different course of action, usually the administration of the oath, as will be discussed later in the chapter.
[182] Despite its typical nature, the Mi'ad described above exemplifies the nature of the Mi'ad and its purpose as a process of making public what has been achieved in private negotiations. No evidence is presented and evaluated in the Mi'ad, no hearing of witnesses, no passing of judgment based on the evaluation of the facts of the case. Actually, the facts of the case are never presented and a person who is not acquainted with them before hand has no way of learning what the dispute is all about by merely listening to the discussions of the Mi'ad.

628 The key role in the process of mediation in dispute settlements is
613 done by the Aqila or the leader of the bait. When a dispute occurs between members of different baits, each party goes to the Aqila of his bait who takes immediate steps tomeet with the Aqila of the other party and discuss the matter with him in an attempt to reach a settlement. He acts as a representative of members of his bait and defends their interests in

439 Aggary Eila. When they arrived with the cigarettes, Hadi was not at his tent; he was in the market of the nearby town selling sheep. They left the cigarettes and left for Alexandria to arrange for their distribution. In Alexandria they met Rabbuh Hakim, the son of Hakim, who married a girl from Alexandria and lived there. He made his income from buying smuggled goods at wholesale prices and selling them at a profit. When he met the two members of the Geneishat tribe and learned from them about the shipment they left at Hadi's place, he wanted to buy it. But they refused on the grounds that Hadi had already contacted someone and that all they could do was to give the first option to that individual. Two 439 hours after the conversation between Rabbuh Hakim and the Geneishat, the 625 police officer on duty at the station of Burg el-Arab received an anonymous call from Alexandria informing him that a shipment of smuggled cigarettes worth more than three thousand pounds was hidden in Hadi's olive mill (which was not in use at that time). The call was overheard by a member of the Sanagrah tribe who works as a detective with the police. He tried to warn Hadi of the police raid but it was too late. The officer found the cigarettes in Hadi's olive mill in the exact place where the informant said they would be. The cigarettes were confiscated and Hadi was arrested and later released when the officer didn't find enough evidence to prove that he knew about the shipment or that it belonged to him.

685 The confiscation of the cigarettes enraged both Hadi and his part-
627 ners. They went to Sheikh Ta'ib, the Aqila of bait Eweidha to which Hadi
578 belonged. They told him about their conversation with Rabbu in Alexandria and said that they thought he was the one who informed the police about the shipment. Ta'ib said that Rabbu must have done this because of old

685 627 598 grudges that he had against Ta'ib when the latter dissolved the partnership which had existed between them for more than ten years, because of Rabbu's attempt to cheat Taieb in dividing the profit gained from smuggling goods. They asked Sheikh Ta'ib to be their mediator to Sheikh Hakim and his son. Ta'ib went to Hakim himself and informed him of the accusations directed against his son and asked to arrange for a "Mi'ad" or legal hearing. Hakim agreed and told Taieb that his son accepted Taieb as a mardi and would abide by whatever decision he made. After that both parties to the dispute wrote specifying their agreement on Taieb as a mardi and all signed it. (It is not customary to write the agreement on the mardi but Taieb insisted on that on the grounds that he did not trust Hakim or his son and that several times they had backed down on their promises). The Mi'ad was held and all interested parties attended. It lasted only half an hour, most of it spect drinking tea. Nobody presented his case or any facts related to it since both parties had apparently discussed it earlier with Taieb. The only one to speak was Sheikh Taieb. He stated that Hadi and his partners believed that Rabbu had informed the police which caused them to loose merchandise worth more than three thousand pounds. He also said that the accusation had been denied by Hakim on behalf of his son, after having his son swear by the Qoraan that he hadn't informed the police. Then in the traditional phrase, Taieb said, "I therefore follow the Awlad Ali Daraieb and make the judgment to the oath. Rabbu will have to take the oath supported by fourteen male members of his bait to be selected by the Geneishat." He added that he had discussed the matter with both parties before announcing it and that both had agreed to it.

685 627 578 695 [671]

685 627 798 695 [671] [776] The Geneishat selected the tomb of the saint where the oath was to be administered. According to the customary law of Awlad Ali, the plaintiff is the one to decide which saint is to be sought for the taking of the oath by the defendant. Each saint has his own reputation and some are said to be more effective in certain kinds of disputes. The saint selected in this case was Sidi Dmain. Sidi Dmian's tomb is in the Beheira province some 60 miles east of the area of Burg el-Arab. He is [732] [784] known to cause the blindness of those who dare to swear falsely by him, and at least four cases of blindness in the area have been attributed to [671] false oaths at Sidi Dmain. Also according to the law, it is the plaintiff who selects the persons from the defendant's kin unit who are to 685 627 695 613 [803] support him in the oath. Following this rule, the Geneishat, with the help of Hadi, selected the fourteen men from bait Asabei to swear with Rabbu. The number of men that were required in this case was considered very conservative. The usual practice in estimating the number of supporters in any case is done by establishing the value of the damage or compensation and dividing it by ten. The result is the number of men needed to give the oath. If there were not enough adult males in a given kinship unit to fulfill the number needed, some or all the men would have to be sworn twice or three times and each time a person takes the oath he is considered as a separate person until the number needed is met.

Following this rule, and since the value of the property confiscated in the above case was over three thousand pounds, 300 persons should have been sworn in support of Rabbuh. Since this would have complicated the matter greatly, it was agreed that fifteen men were enough. Taieb gave the justification for limiting the number to 15 that trade and, as

685 such, deviates from the normal pattern of cases dealt with by the cus-
627 tomary law in the conventional way. The men selected by the Geneishat
695 included, in addition to Rabbu and his father Hakim, Shei'eb and his
613 three brothers, Hakim's cousin Samsoun and his four brothers and Hakim's uncle Sheikh Qudura and his sons. The date of the oath was set for June tenth. Two days before, the two parties involved in the dispute invited a number of the important people of other tribal segments in the area to be witnesses to the oath. All involved started to travel to the tomb of [492] [494] Sidi Dnain, some on donkeys, others by bus or train. At six o'clock on [497] the morning of the oath everybody gathered in the courtyard outside the [708] tomb of the saint. The granddaughter of the saint works as a mediator [787] between the spirit of her grandfather and his followers announced that [706] the saint was ready for the oath and everybody went inside preparing for the oath. Before the oath was taken the Geneishat asked Hakim if his son and the fourteen men they had chosen were present and Hakim said they were. Since the Geneishat were from a different tribal segment and lived outside the area, they had no personal knowledge of most of the men who were to take the oath. Knowing the reputation of Hakim they [212] asked the men to present their identification cards to check them against [747] the list they had. At that time Hakim said that some of the men didn't have identification cards because they had not applied for aid from the World Food Program. Then the Geneishat demanded that those without cards should be identified by members of other tribal segments who had come as witneases. Hakim refused and then admitted that one of the men was absent and that he had put another in place of him. But when the Geneishat learned that the one to be absent was Sheikh Qudura, they insisted that

685 no one else could take his place. They were mainly angry at Hakim's
627 attempt to cheat them and refused Hakim's offer to substitute ten men
695 for Qudura. The temper of the meeting was becoming very tense; then
613 [578] Taieb, who was working very hard to achieve a settlement between the disputants, took the Geneishat aside and tried to convince them to accept another man instead of Qudura. When he found that to be impossible, he asked them to agree to a postponement of the oath until they saw what prevented Qudura from coming as he had promised. The Geneishat agreed to the postponement because of the absence of one of the men to swear. [691] According to Awlad Ali Daraieb, if one of the individuals to take the oath fails to show up in the saint's tomb for any reason or if he comes but refuses to take the oath, the whole case for the defense fails, and the judgment is awarded automatically for the plaintiff. In this case the Geneishat were entitled to immediate compensation for their confiscated goods. Nobody knew the reason that led the Geneishat to forfeit their right to immediate compensation and to give Hakim and his son a second chance despite their intense dislike for the latters. Some attribute this to the skill of Taieb and the respect he commands among all tribes. Others believe the Geneishat movement to be a reciprocal act to bait Asabei' as a whole which long ago had one a similar favor for the Geneishat. Still others beliebe it to be a gesture of good will on the part of the Geneishat who needed to retain a good and friendly relationship with the tribal segments on their smuggling route.

No date was set at that time for the oath. The parties as well as
685 the witnesses returned to their houses. Hakim then took Shei'eb and
627 went to visit Qudura to see why he hadn't come to the oath but Qudura
578

685 refused to see them. Later Hakim had Shei'eb spread the rumor that Qudura
627 had taken a bribe from the Geneishat to refuse to take the oath, and the
578 story of an old dispute between Qudura, on the one hand, and both Hakim
[521] and Shei'eb, on the other. This dispute dates back to the time when the
613 Awaqil of the Aggary Amar decided to replace Shei'eb with Hakim as the
156 Aqila of bait Asabei'. Shortly after the decision of the Aggary Awaqil
554 was publicly known, Qudura was very unhappy and refused to recognize it.
578 His reaction was not out of loyalty to Shei'eb whom he thought was a very unfit person for the position, but it stemmed rather, from a deep resentment of Hakim. According to my information, Qudura's position was met with sympathy by the majority of the people outside the Aggary Amar who share with him the belief that Hakim was a dishonest person who could not be trusted as a representative of bait Asabei'. It was at that time that the stories of Hakim's dishonest dealings were being discussed publicly, mainly by Qudura and members of his camp. At that time many believed that Qudura was the best man for the position of Aqila of bait Asabei' and that he was the only qualified member of that bait. He was the oldest able man in the bait, and although he was poor, yet he was known throughout the area for his honesty and sound decision. In fact many people in the area told me that they believe Qudura to be the only honest member of bait Asabei'. Realizing that Qudura was getting all the attention, Hakim sent his son Rabbu to Qudura with a message that Hakim acknowledged Qudura as the Aqila and that he (Hakim) had neither the time nor the interest in taking the position himself. Hakim also conveyed the view that he would support Qudura if the latter denounced Shei'eb and appointed himself in his place. Qudura agreed and a date

was set for a meeting in which Quadra was to announce his decision. Meanwhile, Qudura stopped attacking Hakim and directed his attack toward the inadequacy of Shei'eb as the Aqila.

The meeting was held two weeks later and all the important people in the area were invited. After dinner was served Qudura announced his agreement with Hakim to become the Aqila of bait Asabei' replacing Shei'eb. Everybody expected Hakim to support Qudura in his claim, but instead Hakim directed his comment to Qudura telling him that there had been a misunderstanding on Qudura's part and that all his message to Qudura was to acknowledge the latter as the Aqila for his own camp alone not for bait Asabei' as a whole as Qudura claimed. This announcement was a surprise to everyone in the meeting since this meant recognizing the camp of Qudura as a separate bait, a result which nobody, including Qudura, had ever anticipated. Qudura was very angry and dissolved the meeting immediately. Ever since that incident, the relationship between Qudura and Hakim has been very unfriendly. Almost all of my informants explained Qudura's failure to show up at the oath as a means of revenge against Hakim who had embarrassed him among the people who attended the meeting. Qudura himself had told me later that the reason for his not coming to the oath was that he was not sure that Rabbu was innocent:

> Rabbu has been known to do these thins (inform the police) and I cannot trust him. I cannot take a false oath and endanger myself for someone like Rabbuh. Besides, Hakim never came to me to discuss the oath like he did with all the others who were to swear with them. If he had brought his son and come to me before I would have been able to tell whether they were lying or not, and If not, I would have sworn with a clear conscience and without fear. The oath is something that one does not take lightly. It involves the supernatural.

When Qudura refused to see Hakim and Shei'eb, Hakim asked Sheikh Saleh, the Aqila of one of the most powerful baits in the area, to talk

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[196] to Qudura and to tell him that Hakim wanted to show his respect. This means in everyday parlance that Hakim was willing to pay him money. Qudura agreed to meet Hakim the following day.

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[574] On the day of the meeting, to which I was invited, Hakim arrived with his son and gifts of three goats, tea and sugar. One of the goats was slaughtered and supper was prepared for the guests. While the guests were eating, Hakim and Qudura disappeared inside one of the tents for more than an hour. When they finally joined the gathering, Hakim announced that he and Qudura were now brothers and that it was his fault that Qudura was angry because he had accused him of being stupid and misunderstanding the content of the message sent to him after the meeting of the Aggary awawil. "I admit," said Hakim, "that I might have meant at one time and probably said it to sheikh Qudura that I wanted him to be the Aqila of bait Asabei'. Now that I have admitted this, Sheikh Qudura should not have any grudges against me or my son." Then Qudura addressed the gathering and said, in a very cold and dry manner, "I am glad that Hakim has come to this senses and admitted his mistake." The gathering lasted for most of the evening, spent mostly in behind-the-scenes meetings involving Hakim, Qudura and different guests. Then as the last guest left, Shei'eb, who had been inside the tent throughtout the evening came out and said that Hakim was a fool and that Qudura had tricked him into admitting publicly that he had lied and that Qudura still refused to take the oath.

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[521] Qudura's stand created a strong reaction which affected almost all the tribal segments in the area. The case overshadowed any other event and was the main topic of discussion. The reaction was mixed, however.

613 a request and examine the reasons behind it in an attempt to remedy them
681 if possible. They have to be sure first of all that by his request the person is not avoiding the paymnet of his share in a particular case.
[695] If this is proven to be the case, then no barawa is granted unless the person pays all his debts to the amar. This, like the amar's barawa of the individual, has to be put in writing.

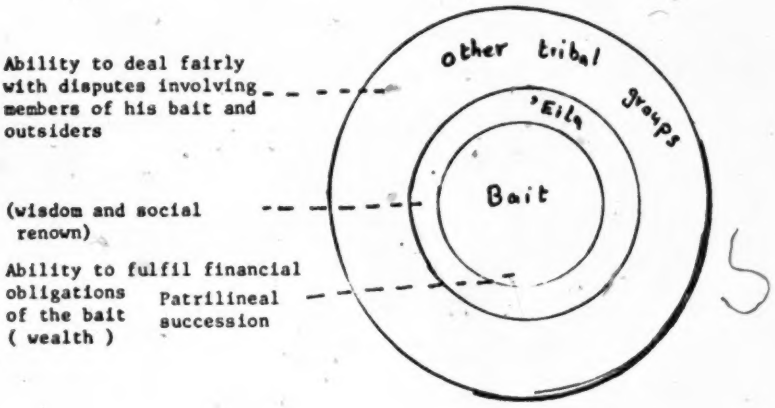
613 I left the area a month after the meeting held at Qudura's camp.
578 By the time I left, bait Asabei' was almost in a chaotic situation.
[114] Many thought that the outcome would be in favor of Qudura, who would emerge from all the happenings as the leader of bait Asabei' as a whole. Others thought that the only possible outcome was for bait Asabei' to be divided into two or even three separate units with their own respective leaders.

Analysis

114 All events of the second phase occurred while I was in the area.
•627 Nonetheless I was not able to observe directly all of these events, due to the nature of the judicial process among Awlad Ali which relies, as has been mentioned earlier, on informal mediation and influence, rather than on formal court hearings. Most of the above events happened behind
[124] closed doors and with a great amount of secrecy. For this reason I had to rely partly on informants' accounts of what exactly had happened between the parties involved.

613 The dispute in its two phases revealed a major weakness in the
627 social structure of the major bait of the Aggary family. As the events
182 of the case unfolded, they shed light on some of the important principles

613 underlying the authority of the Aqila and the source of his political
627 support. Three such principles were evident in the above case: patri-
182 lineal succession, wealth, and social and personal renown.


Ability to deal fairly with disputes involving members of his bait and outsiders
(wisdom and social renown)
Ability to fulfil financial obligations of the bait (wealth)
Patrilineal succession
other tribal groups
'Eila
Bait

613 To better understand the importance of the three principles to the
554 authority of the Aqila, it is important to examine the domains within the Aqila normally functions. First, the Aqila is the leader of a certain kinship unit: the bait. Historically, the bait has been the main field of action for the Aqila and from it he draws his main political support.
613 As the leader of his bait, the Aqila settles disputes among members of
627 his bait and represents the group for political and administrative pur-
554 poses. His function is to hold the bait together by preventing major disputes between members from leading to the fission of the group into smaller, separate units. He performs his function by exercising authority and/or personal influence to establish long-lasting agreements.

613 428 [562] everything ... his property, his name, and anything he can give him, like the position of the Aqila. This is only natural." While the office of the Aqila is inherited through the male line, there seems to be no special regard for seniority. Any son of the Aqila can succeed him in the position and it is usually left to the Aqila to select the son who is to succeed him. This decision is not usually the subject matter of brotherly rivalry since the position of Aqila is regarded more as a duty than as a privilege. There has been only one case in the entire area of the Western Desert in which such a decision has lead to open fighting between brothers. "When my father became very old and his eyes bothered him, he told me that I should become the Aqila and could not say no to him," said Shei'eb. "I didn't want to become the Aqila but this was the choice of my father and I have to obey .... You owe it to your father and family to carry on his responsibilities the same way you carry his name." It was patrilineal succession upon which Shei'eb based his case. Most uninterested parties believe that he and he alone had the legitimate claim to the position.

613 627 554 The importance of patrilineal succession as the basis of the Aqila's authority may be better understood by contrasting it to a closely related position, that of the "mardi". A man within a bait may acquire, by virtue of personal qualities, a reputation for wisdom and soundness of opinion which may overshadow that of the Aqila. Such a person becomes known throughout a certain area as a successful mediator and go-between; and therefore is called upon to solve disputes not limited to members of his own bait. He thus acquires an informal position which cuts across a number of baits and sometimes larger political units.

613 The word mardi is derived from the Arabic verb "yardi" which means
627 to accept or agree upon. The mardi therefore is the person who is ac-
554 cepted by one or both parties to a dispute as a mediator. If he is ac-
[192] cepted by only one of the parties, his work is more that of a legal representative of that party. He makes all efforts, using all powers of persuasion to get the other party to concede to the demands of the party he represents. If, on the other hand, he is chosed by both parties to a dispute, he acts as an impartial judge and avoids taking sides in the case. His fame is determined by his ability to achieve permanent, long-lasting settlements. His success in this area depends, in addition to personal qualities, upon the respect he has within his own tribal segment and the weight that tribal segment has among other tribal segments. Similarly, his success and the fame he gets as a mardi may give him considerable influence within the bait. But this influence does not develop
[182] into authority because the mardi in this case does not have an established
[428] basis for the effective maintenance of that authority, in this case, patrilineal succession.

613 The other domain within which the Aqila performs his duties is that
554 of the Eila or the amar. His main function within this area is to repre-
682 sent his bait in matters involving the collection or the distribution of bloodmoney within the vengeance group. Within the amar, the aqila is considered successful insofar as he is able to fulfill his bait's financial obligations to the amar. This ability is in turn determined by his success in collecting money from individual members of his bait and/or his willingness to pay from his own money for those members who are unable or unwilling to pay their share. Where kinship ties are strong, the Aqila

His success in solving disputes between members of his baits and outsiders might enhance his prestige within the bait, but it is not a substitute for patrilineal succession as the basis of the Aqila's authority. But in less integrated baits the situation is different. The ineffectiveness of the Aqila in solving disputes may lead members of his bait to seek another man as their representative who would act as a mediator in their behalf. If this continues for a long time the Aqila might find himself with no functions and the new person would become a de facto Aqila.

The Aqila represents the only effective indigenous form of leadership among Awlad Ali at the present time. The camp headman provides another form of leadership on the camp level, but, as mentioned before, the leadership of the headman is very limited and involves minimal authority. In addition to the indigenous leadership represented by the Aqila, there is the superimposed administrative structure of the government representative in the form of the "omda" system introduced into the area by the government decree no. 1187 of 1958. The system of omda or mayorship is essentially that applied to the rural areas of Egypt with certain modifications to fit the tribal organization and the semi-nomadic existence of the populations of the Western Desert. In rural areas, the omda is the administrative head of the village. He is appointed by the government from among the village inhabitants who have certain qualifications with regard to education (must be able at least to read and write), wealth (own at least 5 feddans of land in the area), and sound reputation. As such, the omda system in the rural areas is a territorial system. The omda's authority covers the territory of the village and all individuals living in it regardless of their kinship affiliation.

795 Because of their religious position which put
195 them outside the tribal structure, the leaders of the zawyas played a
627 significant role in mediation and settling disputes between various tri-
793 bal segments. At their disposal was their ability to ostracize anyone
[626] who did not abide by their decision from the zawyas, which meant depriving him from all the benefits, social as well as religious, that membership in the zawyas offered.

795 After the First World War when the British replaced the Turks as
195 governors of the area, the zawyas were closed and the religious leaders
177 ordered to leave. The zoning established by the zawyas existed, however,
[648] and was used as the basis for the redistricting of the area. Police
[631] stations replaced the religious centers. From the standpoint of the tri-
[625] bal population itself, the districts have no psychological or political
619 reality. The zawyas were originally established in the areas of tribal
634 concentrations. But the area itself did not have any political identity.
[795] The only reality from the standpoint of the inhabitants was the tribal
[361] reality and affiliation which cut across many of these districts. Many of the tribal segments inhabiting one district were and still are hostile to one another. To transform the zones into administrative districts and to establish one office of leadership for the whole district was to impose a political unity nonexistent among the tribal segments inhabiting the district. To avoid this difficulty, the government supplemented the territorial principle of the omda system in the rural area with the principle of tribal representation and came up with a system which seems to suite the situation in the Western Desert. For each of the districts, a list of all tribal segments which habitually occupy the area and whose tribal land is located within the district, is made. The most powerful

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584 has to have a good reason. If he breaks it without sufficient reason,
[686] he may be liable to pay "kabara," or fine, for insult to the prospective groom and his family. Adequate reasons for breaking the fatha agreement vary from one case to another and include such things as the discovery that the prospective groom or any of his family is of questionable character. This applies to the groom as well as to any member of his immediate family, the implication being that if he has such a person close to him, he is likely to be influenced by him in his treatment of his wife. If, however, the questionable character of the groom or the member of his family was known to the guardian of the bride-to-be before the fatha was read, then to break the agreement is considered unjustifiable. This has been upheld in a number of cases which I recorded during my stay in the area. One of these cases involved the agreement
584 686 629 between a member of the Sanagra tribe in the area of Alamein to marry his daughter to a member of the powerful Bara'sa tribe in Libya. After the fatha was read, a wealthy merchant from Alexandria saw the girl and asked her father to marry her, and the father agreed. To justify his breaking of the fatha agreement, the father claimed that he had discovered that the first prospective groom and his father were involved in smuggling goods across the Libyan borders. In the Mi'ad that was held upon the request of the first groom and his father, the father claimed that the bride's father had known about the smuggling and even participated in the distribution of the smuggled goods. The father of the bride was made to pay the sum of ten pounds as kabara to the first groom and to pay him another ten pounds for the expenses of the ceremony in which he had slaughtered two goats. The settlement was based on the fact that all indications show that he must have known about the smuggling activities

584 686 [627] of his future in-law before he agreed that his daughter marry him. So, to break the agreement on the basis of discovering that defect is not permissible and is a kind of behavior not to be encouraged. To encourage such behavior would lead to the waste of time and money and would lead to the disgrace of the fatha as a preliminary agreement.* Permitting the father to break the fatha agreement when discovering an unknown condition related to the prospective groom or his family, is to apply an important principle in the Islamic law with regard to all 686 contractual relations. This principle maintains that any contractual agreement pertains only to the facts and conditions specified at the time of the contract. This implies that the conditions of the contract have to be explicitly stated. A deliberate effort to conceal an undesirable condition has the equivalent effect of specifying the existence of its opposite. Such concealment invalidates the contract and permits the aggrieved party to dissolve the contract on the basis of cheating or unfair deal, or "ghish."

If, on the other hand, no deliberate attempt is made to conceal the undesirable condition at the time of the contract, then there is no basis for dissolving the contract on the basis of cheating or unfair 584 deal. Thus, in the case above, neglecting to mention the fact that the 686 groom and his father were involved in smuggling could not be taken as the basis for unfair or unreasonable behavior on the part of the groom, unless there was proof that they intended to cheat and conceal that fact deliberately, and that they knew that if not concealed, the fact would affect the acceptance of the bride's father to the marriage. All indications of the case above point to the lack of intent to defraud. On the

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* The same rule applies to the breaking of the "fatha" agreement by the groom.

582 of parley land or a well or to make him a partner in a business or smug-
557 gling activities or even as revenge on his uncle by keeping his daughters
582 unmarried. In 1961 the heads of 25 prominant baits of various tribes
557 in the area of Matruh met and decided that the right of ibn 'amm had
178 become a major problem, and that invoking that right when the man had
613 no intention of marrying the girl had resulted in a number of disputes
that became serious over a period of time. They felt that the time was
suitable to revise that right and make it subject to the concept of fair
behavior applicable to other rights. They wrote a new rule which speci-
582 fies that the man has the right to prevent his cousin from marrying an
557 outsider or a more distant relative only if he himself intends to marry
178 her either in the present or in the reasonable future. If the circum-
613 stances show that he cannot do so, then he forfeits the right.
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[558] To prevent his cousin from marrying another man without a proven
[681] intention on the part of the man to marry her himself in the fore-
seeable future, is considered as an unreasonable behavior for which
ibn 'amm could be liable to pay kabara to his uncle as well as to the
prospective groom. It also denies him the right of taking her away from
[683] her marital residence by force. If he does this, he would be liable to
the compensation for assault. The agreement was signed by the awaqil
and is considered binding as far as the baits they represented are con-
cerned. Other tribal segments in the area refuse to abide by the agree-
ment and consider it as a pretentious departure from the ways of Awlad Ali
which should not be encouraged. Even within the tribal segments involved
in the agreement, there have been reports of individuals who refused to
[627] abide by the agreement. In certain of these latter cases, the ibn 'amm
selected as his mardi a member of a tribal segment not involved in the
agreement and therefore not morally bound to abide by
its contents.

593 spent the night inside. In the morning Muftah ordered his daughter to
574 pack her clothes because she was to leave with him. He refused to give
606 her husband any explanation as to why he was taking his daughter away.
586 The husband could not prevent him from taking her away because, as he said, "He is her father and has the right to take her away with him at any time."

When the wife did not return for two weeks, her husband went to her father's house to take her, but her father refused to let her go. Hemeida
593 then went to a religious man in the area and asked him to intervene in
574 the matter and see why Muftah had taken away his wife. He also asked him
606 to arrange a mi'ad with Muftah to discuss the matter.
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627 The religious man was selected in this case because he was a close
792 friend of Muftah and was believed to have influence over him. He was also known throughout the area to be fair and of sound opinion. It is important in the cases of disputes that the person selected as a mardi is known as a wise and fair man. It is only then that he is able to mediate between the two parties without being accused of taking sides.

792 The religious men, members of the Murabiteen tribes in the area, by their
619 relative position outside the formal tribal organization of the Sa'adi
627 tribes, are the most likely candidates for such activity. Yet, this is
554 not always the case. For this aspect of assumed impartiality is frequently balanced off by the fact that these religious men lack the support of a powerful tribal segment behind them. To be effective, the mardi has to be respected, not only for his personal qualities, but also for being a member of a respectable tribal segment whose power lends authority to the mardi's decision. This is not usually the case with the client
000 tribes of Murabiteen. Wealth in many cases is also considered an important

Wealth in many cases is also considered an important requirement for the selection of the mardi. This does not mean that religious men in the area have no role in dispute settlement, for they do. It simply means that the mardi is selected according to a number of criteria that vary from case to case, and that in some of these cases sound wisdom and fairness characteristic of religious men are not enough basis for their selection as mardis. This means that the religious men have no special mediatory role based on their religious nature alone. In certain cases religious men offer the best possibility for mediation; in others, a non-religious person might offer a better chance for settling the dispute. In cases of women seeking divorce from their husbands, the wealth of the mediator, more than anything else, seems to determine the selection of the man whom the woman asks to negotiate on her behalf, a point to which I will return later in the chapter.

The Mi'ad was held in the house of Muftah. Present at the mi'ad were Muftah, his son-in-law, Hemeida, the heads of households in Muftah's camp (one of them was his brother and the other five were members of different tribal segments), my driver (who was a member of the neighboring Sanagrah tribal segment), myself, and the religious man. After the tea was served, the religious man said that the discussion should start. He reminded the gathering that this case is a family one and should not develop into a larger dispute. "After all, the daughter's husband is a son, and the case is actually a misunderstanding between a father and a son and should be viewed in that context." Then he turned to Muftah and said that in that spirit he was asking him why he had taken his daughter away from her husband. Muftah said that he had taken his daughter away

Muftah said that he had taken his daughter away
593 to punish Hemeida for what he thought was disrespectful behavior. He
574 then proceeded to descirbe how Hemeida, after bringing the blanket out
606 for Muftah, went inside and spent the night with his wife, defying the
586 basic rule of not showing intimacy in the presence of older people,
627 especially the parents or parents-in-law. For, to show such intimacy
792 is a sign of disrespect. He demanded that Hemeida pay him "kabara"
888 for his injured pride. The term kabara refers to the adjective "kebir"
[681] (lit. respected or big man). Kabara is the fine paid for belittling
[558] someone by word or deed. Muftah insisted that he would not allow his daughter to return to her husband until Hemeida had paid that kabara. Hemeida conceded the fact that intimacy constitutes an insult; but he insisted that his action did not constitute an act of intimacy with his wife, but was a matter of convenience and necessity, since he had only
593 two blankets, and the only one left was that inside the tent. Muftah
574 became angry and started shouting at Hemeida, who, in turn, started
606 shouting back; it became impossible to follow what was being said.
586 The religious man interfered in the discussion, trying to stop the argu-
627 ment between Muftah and Hemeida. The others attending the mi'ad also
792 interfered. The religious man and two neighbors took Muftah outside
[578] the tent while Muftah's brother tried to calm Hemeida down. The other members of the group also calmed Hemeida, reminding him that he was the younger person and must be more tolerant of older people. They also reminded Hemeida that Muftah was his father-in-law and had the right to take his daughter away any time he chose. They urged him to "defeat the devil"
[681] and to apologize to his father-in-law and pay him kabara. He seemed convinced but insisted that all he was going to pay was five pounds and a goat. Muftahh brother and one of the neighbors then left the tent and

593 went to see Muftah and his company. Half an hour later the religious
594 man came and took Hemeida aside and talked to him in a very low voice,
606 then left the tent again. A few minutes more had passed; everyone re-
586 turned to the tent; Muftah was not angry anymore. The religious man
627 read the fatha, or the beginning sura of the Koraan, then said that the
792 souls were now pure and that Hemeida was considered as a son of Muftah
[779] and that disagreements such as this should not alter the good relations between the two. He said that the devil had found his way into the souls of the two people, but now, thanks to God and the good people present, they both had come back to their senses. Hemeida then rose and went to where his father-in-law was sitting and shook hands with him. Then he
[581] handed the religious man ten pounds which the latter passed to Muftah and promised to send him a goat as a gift to his daughter. Muftah left the tent and went to the tent of the women. When he came back he announced that a goat had been slaughtered and that everyone was invited to eat. Everybody then left and Muftah promised to return his daughter to her husband the following day.

593 While the right of the father to take his daughter away from her
606 husband constitutes a check on the authority of the latter and insures
557 the wife good treatment by her husband and her in-laws, not infrequently
586 that right has been invoked for personal or individual interest on the
[429] part of the woman's father or her closest male kin. Several cases have been cited in the area where the father or guardian had invoked the right to force the husband to concede to certain demands of the wife's guardian, even when the wife objected to those demands or disagreed with her guardian. One of these is the case of Mabroka who is married to a distant

584 578 606 686 Two days after the groom left, the bride's father (who is at the same time Hassanein's daughter's father-in-law) came to Hassanein and told him that the marriage was called off and that he should send a letter to the groom telling him the news. The reasons given by the bride's father were that the groom showed improper manners when he stayed overnight at the camp and that he followed the prospective bride to the water well to have a close look at her. He gave the money to Hassanein and asked him to return it to the man in Matruh. Hassanein was very disappointed and considered this an insult to him, since he was the mediator in that marriage, and insisted that the bride's father go on with the marriage. When the latter refused, Hassanein went to his daughter and ordered her to leave with him. Her husband was there and could not refuse to let her go with her father, even when Hassanein made it clear that her husband could not have her back unless his father kept his agreement with Hassanein's guest. Elewah, the daughter's husband, asked for a mi'ad to discuss the matter with his father-in-law. The mi'ad was held in Hassanein's house and was attended by Hassanein, his son-in-law, and two people from a different lineage, each selected by one of the disputing parties. Hassanein refused to give any reason for taking his daughter away from her husband except that he was exercising his rights. Eleway, on the other hand, insisted that Hassanein was not justified in his actions and that it was not right to punish him for something that his father did. The two representatives tried to calm both parties and to reach an agreement but were not successful. The mi'ad dissolved with Hassanein not only insisting on keeping his daughter, but also threatening to marry her to a rich man in the area. The case was not solved by the time I left the field.

581 Marriage does not deprive the woman of some rights of her own.
585 The customary law gives the wife three basic rights corresponding to
562 those of the husband's sexual services, domestic work, and obedience.
671 Corresponding to the first of these, the wife has the right to have a normal sexual life with her husband. This right, however, is not an exclusive one, since the husband can marry more than one wife. A woman
585 can be divorced from her husband without having to return the mahr if
586 she claims that the husband is unable to perform his sexual duties. In
593 such cases, the marriage is usually dissolved quietly. In certain rare
585 instances, the husband may deny his wife's accusations. If both insist
586 on their stand, one or both may ask to be submitted to "bait el-shana'a,"
593 or house of the dreadful deeds. Reports are extremely vague about the
627 exact procedures involved in this case. Some informants stated that the married couple would live in a tent without sidewalls so that everybody could see what goes on inside. Most informants, however, insist that it merely means that the couple move their tent near that of a respectable man whose word is believed and honored. This man is supposed to keep a close watch on the couple's activities, by listening or looking through holes in the tent. His verdict determines the future of the marriage.
583 If the wife is justified in her claim, the husband is forced to divorce
586 her and to forfeit his mahr. If, on the other hand, the verdict is for
681 the husband, he not only can divorce her and get back the mahr, but is
558 also entitled to kabara, or compensation, for his injured pride. There
114 is no case of bait el-shana'a in the area during the time of the field
178 work, and most people insist that this practice is something of the past
583 when the mahr was relatively high and was paid in livestock, in which

585
586
593 case its return to the husband would have caused great financial in-
627
[114] convenience for the wife's family.
[178]
(583) Corresponding to the second right, the husband's right to his
581 wife's domestic work, is the wife's right to maintenance. The husband
585 has to support his wife. This includes providing her and her children
562 with adequate food and proper clothing. If the husband fails to do so
593 because of poverty, sickness, crop failure or unexpected disaster, the
wife's brother or father provides her and her children with the neces-
[586] sary food and clothing. If the husband's failure to fulfill his duties
is due to neglect, the wife can leave him and go to her father or brother
who talks the matter over with the husband who, in turn, either agrees
to their demands or has to divorce his wife and forfeit his mahr.

593 Finally, corresponding to the husband's right to his wife's obedi-
562 ence is the wife's right to fair treatment by her husband. There are a
[779] number of ways in which the wife is mistreated. One is excessive punish-
ment; although the right of the husband to punish his wife is provided in
the Koraan, the punishment must be excessive or severe. Awlad Ali drav
a line between acceptable and severe punishment. A punishment is severe
if it results in something that other people can see or hear. If the
husband insults his wife or her family and others hear the action, or if
he beats her and this results in visible traces, then the punishment is
severe.

593 A wife considers herself mistreated if the husband, when married
595 to more than one, treats any of the other wives better than he treats
562 her. Although the wife cannot deny her husband the right to have ad-
ditional wives, he must give them all equal treatment. This includes

586 562 574 the man she chooses. She informs him before she enters his house that she is the wife of so and so and the daughter of so and so and that she is throwing herself on him to protect her from her husband with whom she no longer wishes to live. Like the right of refuge, the man cannot [778] refuse to let her in; and from this moment until her dispute with her husband is resolved, she is considered as his house guest and is entitled to all the hospitality a guest receives. If he refuses to extend that hospitality or refuses to take her in, she can ask for a mi'ad [627] [681] and is entitled to kabara from him. There has been no reported incidents in which a man refused that right to a woman. As soon as she settles down in the host's house, the latter takes immediate measures to find the husband and to convince him to let his wife go. In doing this, the man uses all the power of persuasion. The man selected for this purpose 586 562 574 is usually a respected man who can put pressure upon the husband. Sometimes he has to bribe the husband to release the wife, paying from his 554 own money. The man has to have money, not only to be able to support [556] the wife during her stay in his house and to bribe the husband, but also because in certain instances he has to pay the husband the mahr that the father of the wife had taken in order to free her. The next step after getting the agreement of the husband to divorce his wife is to contact the father of the wife or her guardian and convince him to pay the mahr to the husband. If the father does not agree, or if he is financially unable to do so, the man on whom the woman has thrown herself is supposed to pay from his own money. In cases where the woman left the husband to be married to another man with whom she had had a relationship, the respected man tries to have the future husband pay the present husband the mahr he is supposed to pay the woman after she is divorced from her

such compensation. In forfeiting her rights of inheritance, a woman secures for herself and her children the continuous support of her kin-group and the protection of her rights. This support was denied in the few cases I was able to collect in which the woman demanded her share of inheritance. The following is one of these cases. The material presented is a summary of the life history of Fatma, who at the time of the study, was a shopkeeper managing the small general store she owned near the railroad station of Burg el-Arab, some fifty miles west of Alexandria. She also practiced healing and midwifery on a part-time basis.

Fatma was the only daughter with four sons of sheikh El-Asi, who at one time was the aqila of bait Hussein of the Sanagrah tribal segment in the area. He was also known as a mardi and was frequently sought in mediation of disputes. He was believed to have supernatural power which he used to cure people for a certain amount of money. During his lifetime, he had acquired a sizable sum of money which he invested in livestock. At the time of his death his herd, which numbered more than 900 sheep and goats, was considered the finest in the area. He had no barley lands because his camp was deep in the desert, but he had fine grazing land.

Throughout the area the four sons were known for being arrogant and irresponsible. Three of them were employed by one of the irrigation projects carried on by the government in the area as construction workers; the fourth looked after the herd of his father. All four were known as chasers of women, and they frequently went to Alexandria to visit prostitutes and drink liquor.

Fatma was first married when she was eighteen to a man from Alexandria who had opened a general store in the area where her father

159 the relationship between her and her brothers.
562
428 Following her action and until the time of the study, they had
593 never visited her and she had never visited them. Her husband took
[237] care of the herd; and the arrangement worked out all right until the
159 husband told Fatma one day that he was going to marry a second wife.
562
593 She refused, but he went ahead with the marriage without her consent.
595 He brought the new wife to live with Fatma in the same tin hut in which they were living. He started to pay more attention to the new wife and to neglect Fatma; whenever the latter complained, he beat her. Then, before one of the religious feasts, he sold two of Fatma's sheep and bought his new wife a dress and a silver bracelet. When Fatma objected
[164] and they argued, he hit her with a stick on the head; she was hospitalized for a week with a serious head wound. While in the hospital, she went to her brothers who lived only two miles away, but they refused to
159 come to her assistance. She then went to sheikh Elewa (the aqila of
562 Bait Asabei) and threw herself on him. He met with the husband and con-
594 vinced him to divorce Fatma. He kept forty sheep of Fatma's herd as com-
593
595 pensation for the mahr he had paid her and the marriage expenses, then
586 took his new wife and moved from Fatma's hut. Fatma then returned and
159 managed her financial affairs successfully herself. She managed the
562 store and hired a shepherd to take care of the sheep. At the time of
444 the present study she was respected by almost everybody in the area, in-
[233] cluding members of the local administration. She is known to be reason-
[229] able and of sound opinion, and her store functions as the meeting place
[521] for many of the tribal mi'ads and for casual conversations. She is also considered as a liason between the tribal population in the area and the local government administration, and is respected by both sides.

CHAPTER VI

HOMICIDE AND BODILY INJURIES

Part 1: Homicide

579 Fighting is quite common among Awlad Ali. Many of these fights involve a large number of individuals and result in many casualties 579 and sometimes even deaths. Fighting is considered "shar," or evil, 673 for according to Awlad Ali, it threatens the social cohesion which is 182 highly valued in the area. Yet, although undesirable, fighting and [682] even homicide are not considered a crime against society and sometimes are viewed as necessary to safeguard individual and collective rights in the absence of an established authority which could protect these rights. Although this absence of an authority is remedied now by the [177] introduction of state administrative justice, this has not yet achieved [692] enough efficiency and recognition to replace the old tribal system.

619 In the tribal system, there is no concept of individual punishment 681 inflicted upon the suspect. There is no recognized authority to inflict 692 it. The mardi or the 'aqila who performs the function of dispute settle- [629] ment in the case of homicide has no power to pass or inflict any punishment. His role is restricted to mediation between the two parties involved 682 as was earlier mentioned. Homicide, like all other wrongs among Awlad Ali, 673 are private wrongs affecting the individual or a group of individuals. [182] The main purpose of the tribal proceedings in the case of homicide is to restore some form of harmony and order among the group. This harmony is sometimes restored by killing the murderer or any member of his vengeance 682 group, or amar. Feuds may result from such killing, and a few instances 628 of feuds have, in fact, been recorded in the area (although not in the

682 owner of the rope, since it was the broken rope that had caused
672 the death of Do'ah. The case stayed unsolved for more than two months, a record for dispatching of criminal cases in the area.

682 In the final Mi'ad, the main question was whether or not the owner
672 of the rope was responsible for the death of Do'ah, and therefore
627 liable for the payment of the bloodmoney. After extensive negotiations with the parties involved, Sheikh Selouma, the aqila of Hemeida's Bait, who had also been accepted by Do'ah's family as the Mardi in the case, convened the Mi'ad and announced the settle-
682 ment. His announcement came after reading certain passages of the
672 Koran and reminding the parties that they were all members of Awlad
627 Ali and therefore brothers. He stressed the necessity of all bro-
695 thers having clear hearts toward one another and not allowing worldly disputes to leave any impurities among friends. He then came to the conclusion that there were two things responsible for the death of Do'ah. The first was Hemeida's decision to clear the well, for had it not been for that decision, the accident would not have happened. The second thing responsible was the rope whose breaking was the direct cause of the death. The responsibility here applies only to the rope and not to the owner of that rope. The reason Sheikh Selouma gave for not holding the owner responsible for the death of Do'ah was that the rope by itself is not a lethal weapon for which the owner has to exercise a great deal of caution in lending it. To make the owner responsible for the death of Do'ah would, according to Sheikh Selouma, discourage anyone from lending anything to his neighbor for fear of becoming liable for any harm it might cause.

682 "...It means that I will never lend my cooking pot to my neighbor
672 lest his child trip over it and I would be asked to pay his blood-
627 money."
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So, the bloodmoney was divided into two sections, one to be paid by Hemeida, and the other to be the responsibility of the rope, which meant that the victim's relatives only took home half of the bloodmoney.

683 CASE #2: The Case of the Curious Neighbor

682 This is the case of 66-year-old Selouma whose barley land
578 bordered that of Muftah, a distant member of the same tribe. A
672 small area of rocky land separated the two areas. Throughout the time that Muftah was preparing his land for barley cultivation, Selouma used to sit on the dividing rocks, observing his neighbor work on his land and making jokes about the amount of time and effort Muftah was putting into his land, especially when it looked like a dry year, anyway, and no barley would be cultivated. For more than a week Muftah tolerated his neighbor's remarks. "I always said to myself, 'Don't follow the devil... He is an old man and doesn't know what he is saying.' But that day I could not take it any longer. My wife and children were sick, and I didn't have any money to bring them medicine or even food. I wanted to finish preparing the land because it looked like it was going to rain that day. I went to the area I was working on when Selouma started his jokes. I was mad. I took a small stone and threw it at him to scare him and make him stop. The stone hit his leg. It was a small stone, and I didn't think it would harm him. Actually, he stood on his

683 was to be paid unconditionally and consequently would cost all
682 members of the amar; but all these attempts failed. At this point,
672 there was no doubt on the part of the attending crowd about Muftah's
695 responsibility for the death of Selouma. The question was, how much
613 had he to pay. The amount requested by Selouma's son was that for "intentional" killing on the basis that Muftah had willfully thrown the rock knowing that it might harm Selouma, especially considering his age.

683 After long and intensive negotiations with the interested
682 parties, a Mi'ad was set in which it was announced that Muftah had
672 to pay the amount of L.E. 200. In his reasoning, he stipulated
•629 that the wound which had caused the death of Selouma, although it was intentional on the part of Muftah, was inflicted by a stone which in itself is not a lethal weapon, and therefore the death was an unintentional one for which the bloodmoney is customarily estimated at L.E. 300. He also stated that in the excitement that
[845] followed the death of Selouma, Muftah's pregnant wife had lost the child. The bloodmoney for the still-born infant was estimated at L.E. 100, which was deducted from the amount of bloodmoney that Muftah had to pay.

CASE #3: The Case of the Trespasser

311 This case occurred during the year of the fieldwork which was
423 the second dry year the area experienced. Rain had not fallen ex-
613 cept in a very few places. One of these places was near the small
[132] town of Sidi Barrani in which the land belonging to Yadem and his Bait was found. Yadem had sown his barley which at that time had grown to about five feet high. Surrounding the cultivated land

311 was a large area of grazing land which also belonged to the Bait
423
613 of Yadem. The area attracted a large number of tribesmen who
233 brought their herds for grazing. One of these was Kuraiem from
311 Awlad Kharouf tribal segment. He brought his wife and child and
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613 a herd of more than two hundred sheep and goats. Although it is not proper for one to cultivate the land belonging to another tribal segment, yet, when it comes to grazing land, no such restriction is imposed. Only the permission of the aqila of that tribal segment is required, and even that is granted so automatically that many tribesmen do not bother to ask for such permission. Kuraiem took this permission for granted and pitched his
233 tent in the grazing land of Yadem and his Bait. Yadem, however,
311 was disturbed because he thought that Kuraiem grazed his flocks in
578 an area very close to his cultivated barley, so close that he feared that the animals might eat the growing barley. When Yadem asked Kuraiem to move a little further and Kuraiem refused, they entered into an argument during which Yadem told him that if he did not move by the following day, he would break his neck. The following morning Yadem went with his brother to see if Kuraiem was still there. Both Yadem and his brother were armed with heavy sticks. As they reached Kuraiem's tent, they hit him with the sticks on
[682] the head. Kuraiem fell on the ground, and they kept hitting him until he was dead.

682 In due course, Kuraiem's family claimed L.E. 400 bloodmoney
672 for the intentional killing of Kuraiem. Yadem and his family rejected the claim and insisted that the killing was unintentional. The
[627] Mi'ad was held, and the two Mardis selected by the two parties

682 agreed that the sticks were not by nature lethal weapons. The
672 latter, according to the tribal law, are only guns and knives,
• 627 since they give the victims no chance to defend himself. They ruled the case unintentional killing for which only L.E. 300 should be paid.

682 Since Yadem and his brother were arrested by the police for
625 their crime, the payment of the bloodmoney was postponed until
692 the case was settled according to the state legal system. Only half of the bloodmoney was paid and the rest was postponed until the case was decided upon by the legal system and Yadem released.

682 This is obviously a case in which the nature of the killing was
672 decided upon by drawing upon the material aspect of criminal
673 causation. The nature of the weapon used was the major determinant
[411] of the crime. Only guns and knives are defined as lethal; all others are non-lethal by nature, although they might cause the death of the victim. Death caused by a non-lethal weapon is considered as unintentional regardless of whether or not the actor intended the results, while death by a lethal weapon, even without the intention of killing, is classified as intentional killing, as appears in the following case.

CASE #4: The Case of the Threatened Tribesman

613 For more than five years Bait El-Mawi from the Sheibat tribe
628 had been in a continuous state of feud with Bait El-Asi from the Gemeiat tribe. One night, during a Khamasein sand storm when visability was extremely low, Abd-el-Galil from Bait El-Mawi heard a noise outside his tent, and the dogs were barking indicating that a stranger was there. Being sure that someone was approaching

613 the tent and fearing that he might have been a member of the
628 feuding Bait intending to harm him or members of his family, Galil took his gun and went outside to see who was there. He called on the person to identify himself. When he got no answer, he warned him that unless he identify himself, he (Galil) would fire his gun in the air as a warning. After a short period of no
613 response, Galil fired his gun in the air. A moment later, Galil
628 heard a cry coming from the direction of a small hill at the side
682 of the tent. When Galil went there, he found Salem, a member of a neighboring camp, lying on the ground with a bullet wound in his stomach. He told Galil that his wife was sick and that he had come to borrow Galil's donkey to take her to the doctor in the nearby medical center. He had taken the short cut to Galil's tent when he was hit by the bullet which Galil had fired in the air. Galil took his wounded neighbor to the medical center, but Salem died before they reached it.

682 The Mi'ad was held, and Galil and his family had to pay L.E. 400
672 to the victim's kin group. The amount was that specified for in-
627 tentional killing, since the wound that caused the death was in-
673 flicted by a lethal weapon.

CASE #5: The Case of the Startled Shepherd

233 This case involves Idris, a poor member of the Sheresat tribal
[464] segment. He earned his living by working as a hired shepherd for
[619] 'Awwad from Bait Ibrahim in the area of Gharbaniat. During the dry
[312] season, each shepherd takes his flocks to the water wells near the coast and leaves them there for three or four hours to get their fill of drinking water. That afternoon, Idris, waiting for the

233 animals to drink, sat on the edge of the well with his feet in the cool water of the pool completely absorbed in his thoughts amidst the quiet surroundings. Passing by the pool at that time was Mahdi 233 576 from a neighboring tribal segment. Seeing Idris (whom he had not 165 known), he shouted the customary greeting, "Peace on you." Startled by the voice of Mahdi, Idris lost his balance and fell in the deep water of the pool. Mahdi rushed to help him, but the water was too deep, and Idris drowned. Feeling sorry for Idris, Mahdi took the flock and went back to the camp of Idris where he informed the latter's wife of what had happened. A few days later, Mahdi was 682 627 paid a visit by Sheikh Elewa, the aqila of Bait Asabei' and known [613] mardi in the area who informed Mahdi that the family of Idris was demanding the payment of the sum of L.E. 300 for the death of their 682 relative. A Mi'ad was set for the following week. In that Mi'ad, 627 and after Mahdi admitted that it was his greeting that had startled 672 Idris and caused him to fall in the well, the two Mardis represent- 613 ing the two parties agreed that the payment of the sum of three hundred pounds was in order and that Mahdi and his amar must pay it to the victim's family as soon as possible. At first, Mahdi seemed to accept the judgment of the two Mardis, especially when both were prominant members of some of the influential tribal segments in the area. But Mahdi was a poor man, and his amar was very small in number, which made the payment of the bloodmoney almost impossible. 682 Although appeal in the ordinary legal sense does not exist in such 627 a system like that of Awlad Ali, where no judgment is forced upon 672 any of the disputing parties, and where the pronouncement of the 695

682 settlement is usually made after the parties have agreed to it,
629 yet, in certain instances where one of the parties later feels that
692 the settlement was not just or that he was coerced into accepting
695 it, he may ask for a second Mi'ad during which new procedures start in the case. In the present case, although Mahdi had originally accepted the judgment of the awaqil, as time passed and he realized that he was unable to pay the bloodmoney, he started to question the feasibility of the settlement. He discussed the matter
682 692 with Sheikh Suliman el-Gerery from the Murabiteen tribe of Gerera,
695 a tribe whose members are feared throughout the area for the belief
554 that they have certain supernatural powers. Sheikh Suliman himself
792 is highly respected, and people believe that after his death he will
[776] become "wali" or a saint. After hearing Mahdi's complaint, Sheikh Suliman told him that the settlement was unjust and told him that he would do something about it. The following Thursday, Sheikh Suliman called on Mahdi and asked him to bring his donkey and follow him. They rode to a small desert town called Bahig where the local market
613 is held every Thursday. On market day, the awaqil of various tribal
517 segments usually gather in front of the general store in the town
571 drinking tea and chatting until their sons or the younger members
443 of their families sell the sheep and buy the necessary items. Every-
576 one passing by the gathering is expected to greet the gathering, getting off his donkey as a sign of respect to the prominent people.
[589] Failure to greet a fellow tribesman is considered a serious offense liable to a fine of more than L. 50 and ten goats in certain cases.
[673] It is considered a very serious crime. One informant once told me,
000

124 576 829 One informant once told me, "If you don't greet me, this means that you hate me, and if you hate me, there is no limit to the kind of harm you can do me and my family. One who hates you can kill you, and none can walk safely anywhere if he fears that he will be killed."

682 689 672 695 554 792 576 As Sheikh Suliman and Mahdi reached the general store, everyone was gathering there as usual, including the two awaqil who were involved in the original settlement. Sheikh Suliman told Mahdi not to dismount his donkey and not to say the customary greeting as they passed by the gathering. When they passed the gathering, everyone stood to greet Sheikh Suliman who ignored them and left with Mahdi. No one believed that Sheikh Suliman, who should be the guard of the tribal tradition, should commit such an unforgivable violation of the norms of the people. The next morning the whole area was talking about a big Mi'ad to "take the right" from Sheikh Suliman and Mahdi, who had insulted the gathering. The Mi'ad was held a week after the incident. During the Mi'ad, Sheikh Suliman was asked to explain his behavior, and his answer was, "How do you want me to greet all those people who were sitting in front of the store? There were more than thirty men in that gathering, and I was afraid that if I said the customary greeting, I might have startled some of them causing them to harm themselves, leaving me with the payment of so many bloodmoneys." Immediately, the attendants of the Mi'ad knew what Sheikh Suliman was referring to, and that his action was to prove that the settlement reached in the case of Mahdi was wrong and that it set a very dangerous precedent which would cause people to avoid greeting one another, "and hatred will prevail among brothers and nobody will be safe in his own home."

000 own home." The following morning a Mi'ad was called for by the two
627 aqila who achieved the first settlement, and in it, Mahdi was re-
613
682 leased from his obligation to pay the bloodmoney, although he was
695 asked to pay the sum of fifty pounds to the widow of the deceased as a gesture of friendship.

CASE #6: The Case of the Careless Guest

574 The present case involved Ali from the Geneishat tribe who
682 lives in the desert town of Matruh where he has a general store. He goes on frequent visits to Alexandria to get supplies for his store. On one of these trips he passed by the camp of 'Awad from a different tribal segment. Hungry and tired, Ali decided to spend the night at the camp and continue his trip the following morning. He went to the first tent in the camp which happened to be that of 'Awad, who welcomed him and ordered his wife to prepare dinner for the guest. He then invited other members of the camp to have tea with the guest as a gesture of hospitality. When Ali sat down to eat, he took off his shoes, and put his rifle against a pile of rugs and blankets behind him. As the group was chatting, a goat belonging to one of the invited neighbors entered the tent where the men were sitting. Afraid that it might soil the carpets which he had put out for the guest, Awad chased the goat out of the tent. On its way out, the goat touched the guest's gun which fired, killing Hussein, the brother-in-law of one of the neighbors.

682 The local authorities were notified of the incident, but after
627 conducting a preliminary investigation, they filed the case as accidental death. The tribal proceedings continued, however. After

682 627 negotiations between the parties involved were conducted by their respective awaqil, a Mi'ad was set, and the settlement was announced. According to the terms of the settlement, three factors 682 672 627 contributed to the death of Hussein: the goat, whose activity was directly related to the death by causing the gun to fire; the host, who had chased the goat, causing it to run over the gun and fire it; and the guest, without whose negligence in leaving the gun loaded the accident would not have happened. The bloodmoney was divided into three equal parts, one of which was to be paid by Awad, the host, the other to be paid by Ali, the owner of the gun, and the third part to be attributed to the responsibility of the goat and therefore would not be paid.

CASE #7: The Case of the Adulterous Wife

684 For more than a year, rumors spread in the area of Burg El-Arab that Ghenewa's wife was having an affair with Goma'h, a friend of her husband and a member of a nearby camp. Ghenewa was operating a small store and was also involved in smuggling goods from Libya; both required him to be away frequently and for fairly extensive periods of time. According to the rumors, as soon as he left, his wife would put a white cloth on the laundry line as a sign indicating to Goma'h that the husband had left and therefore the former could come and visit her. When the husband heard the rumors, he was furious and decided to test his wife. He pretended that he was going to Alexandria as usual, went to the train station, waited until the train had left, and then returned to his tent. As he entered the tent, he found his wife and his friend in a compromising situation. Before [682] he could do anything, the friend grabbed a kitchen knife and attacked

682 they refuse to accept reduced compensation, they are viewed as unreason-
672 able by the rest of the groups in the area. One way in which such pres-
[626] sure is brought to bear upon the victim's acceptance of reduced compansation
682 is in the mi'ad, or the public hearing, in which the settlement achieved
672
627 is announced. The common practice is for the killer's group to agree to pay the full amount specified by the traditional scale for compensation (L.E. 400 for killing with a lethal weapon and L.E. 300 for killing with a non-lethal weapon). Then, in the final mi'ad in which such agreement is achieved, a number of important members of non-involved tribal segments are invited to the mi'ad. During the mi'ad and immediately following the announcement that a settlement has been achieved and that the kin group of the killer has agreed to pay the traditional bloodmoney, the mardi or any one of the attendants to the mi'ad asks the victim's group to defer part of the payment in honor of important members of the tribal segments pres-
682 ent at the meeting. Sometimes a portion of the payment is forfeited in
672 honor of the tent or the women of the household who prepared the food or even for the blessing of one of the saints in the area. In the case of the curious neighbor (Case #2) above, out of the original amount specified for the death by non-lethal weapon estimated as L.E. 300, only L.E. 100 was actually given to the victim's kin group. In addition to the L.E. 100 deducted because of the death of the unborn infant of the offender, another hundred pounds was deducted in honor of certain important members
[683] who attended the gathering. It is interesting to note that the L.E. 100 is compensation for the loss of the use of a leg in the formal scale of compensations for injuries as will be shown shortly. No such reduction in the amount of bloodmoney was done in the case of the trespasser where

683 owner. This means that an element of neglect has to be proven on the part
672 of the owner of either a lethal weapon or a dangerous animal before he
231 is held responsible for the fdamage they cause. But whether dangerous or not, the role of such objects or animals, in causing the death or injury of the victim, is taken into consideration in assessing the exact amount to be paid as compensation.

682 In assessing the intention and consequently the amount of the tradi-
672 tional bloodmoney to be paid, the behavior of the offender is judged according to a traditional standard of reasonableness. In the case of the curious neighbor, Muftah, in his attempt to evade the payment of the full bloodmoney, presented an elaborate account of his neighbor's actions including the provocative statements that the latter had said, the jokes, and even the insults he had directed against Muftah. His attempt was to show that throwing a small rock at his neighbor was not an unreasonable behavior considering the provocations of that neighbor whose behavior was itself unreasonable. Although the victim's behavior was unreasonable, the response of Muftah to the provocations of his neighbor was also considered as unreasonable. He could have followed the traditional means of asking a third party to interfere and prevent the neighbor from continuing his insults. Instead, Muftah took the direct and unreasonable response which eventually led to the death of Selouma. It is that element of reasonableness that led to the reversal of the original settlement in the case of the startled shepherd (Case #4). When considering
682 672 a certain behavior in the context of reasonableness, the mediators draw
629 not only upon the immediate facts of the case under consideration, but also upon the careful inquiry into the long history of interrelations

682 between the parties involved. The relative position of both the of-
672 fender and the victim and their relationship to one another is taken
629 into account. What is reasonable behavior in one case may not be so in another. Past disputes are taken as indications of the present situation, although they may not be directly related to the present dispute.

672 It is possible to say, then, that Awlad Ali recognize two types of
673 intentions: an assumed intention deducted from certain material aspects of the act itself, like the type of weapon used in causing the death of the victim, and an actual intention which is quite similar to that utilized in modern jurisprudence in the sense that it pertains to a state of mind on the part of the offender that connects him in a special way with the prohibited results. The assumed intention works to set the initial guide for the traditional scale of bloodmoney. It sets the basis upon which compromise could be achieved. Actual intention, on the other hand, determines the actual course the specific case takes as well as the final amount of money paid as a settlement.

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If the two lips are cut off:	
just the lower lip	L. 400
just the upper lip	L. 300
	L. 200
Visible piercing of the lips	L. 50
The tongue: if results in total loss of speech	L. 400
Partial loss of speech is measured in proportion to that total loss.	
All the teeth	L. 400
Each tooth	L. 50
Testicles: if cut off	L. 400
The entire genitals	L. 800
The breasts:	
of a nubile woman	L. 200
of an old woman	L. 100

683 As in the case of homicide, the above scale of compensation works only as a basis for compromise rather than as a definite or exact fine.

683 To assess the amount of injury and therefore the category of compensation, 687 the victim and his group, as well as a representative of the offender, 463 have to take the injured person to the "nazzar" who examines him and defines the kind of injury sustained. The nazzar is usually a member of [619] one of the Murabiteen tribes who is known to possess a number of shari's books specifying the injuries and the amount of compensation required in each case. Before he assesses the wounds, both parties have to swear that [465] they will accept his judgment, and they pay him a token fee that varies according to the ability to pay and the position of the parties involved.

683 The amount of money estimated by the nazzar is not necessarily the final amount of money paid. For, as in the case of homicide, it is subject to deductions in honor of various members who attend the meeting in which

105 The judicial process among Awlad Ali of the Western Desert of Egypt has been dealt with in the context of political organization of
105 the group. The main feature of the political organization of Awlad Ali
613 is the absence of centralized leadership. The only formally recognized leadership is that of the aqila, the leader of the bait tribal segment.
105 The sources of the aqila's authority derive from a number of sources,
613 one of which is his judicial role. It is through him that disputes in-
• 627 volving members of his bait are solved. The process by which he performs this crucial function is that of informal mediation in which both the personal qualities of the aqila, as well as the weight of his tribal
[698] segment, play an important role. This is especially important in a society with no court system or formal hearing and where durability of any settlement depends on its being accepted by the parties involved.

105 The main aim of the judicial process is to affect reconciliation of
182 the parties and to restore a certain degree of social order and cohesion
627 that was disrupted by the dispute. The need to restore the social order
[619] and to maintain friendly relations between tribal members is a response to certain aspects of the natural and social environment in which the
105 group finds itself. Natural resources in the area are very meager, and
182 subsistence activities require that the tribesmen constantly move with
619 their herds for pasture throughout an area already divided among the
233 various tribal segments. Since the place and nature of pasture differ from one year to the next, the identity of the specific tribal unit which would be sought for help varies correspondingly. This creates a general feeling of dependency that characterizes the social relations in the area.

105 On the other hand, there is always a feeling of rivalry and hostility
578 between the different tribal segments which goes back to the era of
571 tribal warfare. Thus, the social relations among the tribal population are characterized by a certain amount of ambivalence which is hidden behind a facade of formality in the way tribal members treat one another
105 in day-to-day activities. There are certain rules of etiquette describ-
571 ing the way members of the same tribal segment should behave toward one
576 another and toward other tribesmen and outsiders. Failure to abide by
[289] these rules may subject the violator to a symbolic fine of a goat or a
574 sheep slaughtered for a feast to which everyone is invited. These feasts,
[182] or dinners as they are called, have various functions, the most important
105 of which is the integrative one. In an area where the population is usu-
571 ally dispersed, these dinners offer an opportunity to the tribesmen who
574 happen to be in the area at the time of the feast to attend, where they
182 eat, meet other tribesmen, and exchange information about what is happening in other parts of the area. It is from such dinners that the tribesmen get to know about the available pastures, about the prices of sheep and goats in different markets, and about who is doing what and where. The occasion also signifies the restoration of the violator of the rules to the social life of the group and the reinforcement of those rules.
105 This is also true with the tribal meetings, or mi'ad, which are held to
629 announce settlements in more serious cases. It is on this basis that
182 the mi'ad should not be considered as a tribal court. It is more of a
[581] social occasion where food and drinks are served and where parties in-
574 volved and all those invited by them talk about everything except the
[581] dispute itself. In certain instances, the financial settlement agreed upon in the informal mediation is exaggerated when announced in the mi'ad

105 so that part of it may be reduced in honor of some prominent members
629 who are attending the meeting. When part of the financial agreement is
182 reduced in honor of a person, this creates an obligation on the part of
681 that person to reciprocate in a similar situation when one arises. This
554 creates an active interest in the settlement on the part of individuals who otherwise are not involved, and insures the durability of the settlement. The social cohesion is maintained.

105 The need to keep friendly relations with all tribesmen is reflected
571 in the judicial process in its procedural aspect, as well as in judicial
578 reasoning, that is, the logic according to which facts in certain cases
627 are assessed. With regard to procedures, there is an emphasis on avoid-
182 ing face-to-face confrontations between the disputing parties until an agreement has been reached by means of the mediators. Only then is it that the parties see and talk to one another. This is especially true in serious cases such as homicide or serious assault where face-to-face confrontation is likely to lead to more hostilities.

105 The emphasis on reconciliation may explain, at least in part, the in-
571 formality of the judicial process. Leaving the process of dispute settle-
627 ment informal gives it a measure of flexibility which permits the treatment
182 of each case as unique without being tied down by rigid formal rules. This does not mean, however, that there are no rules to be followed, or that there is no place for legal precedents. It simply means that the rules are very general and that the legal precedents are used merely as a guide in solving similar cases. The main guide remains, however, the desire to achieve a successful settlement that satisfies all parties. It is only through achieving such successful settlements that the social order is maintained and the tribal cohesion is secured.

5: Peters E-5 (1948-1950) 1967 MT9 Libyan Bedouin MT9
Cyrenaica

degree and is ephemeral, so that the opportunity for the development of trade relations is absent.[1] Save for straying animals, a section has no urgent need to seek relationships with others, as long as the rainfall is sufficient to permit the exploitation of local resources.

The tertiary section is also regarded as the corporate group *par excellence*, in which ' the one word does for all '. Corporate identity is conceptualized as ' one bone ' or ' one body '. An offence against one of its members is held to be an offence against all; if one of its members is killed ' we all lose blood '. When one of its members commits homicide the responsibility falls on all equally. Blood money, when received, is shared by all save for a special portion reserved for the ' owner of the blood ', the nearest agnate of the victim. In opposite circumstances, all adult males accept the responsibility of contributing an equal share to the blood money. Rules of membership, simple in their brevity, express graphically this corporate identity: ' You must strike with us and be struck with us; you must pay with us and receive with us.' The group also bears a name, and there is never any doubt about the affiliation of any tribesman. That group of men—known as the *'amarā dam*—who are agreed on the obligation to exact vengeance, to pay blood money when necessary, to engage in common defence, and to accept the possibility of death in vengeance, is a fixed and clear-cut group, not one whose membership has to be calculated by reference to degrees of kinship in regard to a specific situation, as appears to be the case among other peoples.

Homicide within the *'amarā dam* brings about an impasse in relationships. A blood-money payment is out of the question since the acceptance of blood money by one part of a tertiary section from another of its parts is tantamount to a statement of split. Only in conditions where relationships within the lineage have developed to the point of political severance is it anticipated that a blood-money payment may be demanded; but this problem is not the same as that at present under discussion. Bedouin say that blood money cannot pass within the *'amarā dam* for those making the payment would be the persons receiving it. This is spurious reasoning, since the ' owner of the blood ' is awarded more than any other members of the group as it is, and arrangements could obviously be made to pay him separately. Blood money is out of the question because it distinguishes relationships between people as belonging to two distinct political communities, and not because of any difficulty of distribution. In Bedouin thinking, an injury to ' the one body ' is an injury to all its parts. Blood-money payments by members of a corporation to one or more of its members is a contradiction in terms. In the same way vengeance is also excluded, for this merely doubles the original loss. A reprisal exacted in hot blood is always a possibility, but this is not referred to as *thār*, vengeance. Even if, at a later date, the closest kinsman of the victim should slay the offender, the act would not be referred to as *thār* and any connexion with earlier homicides would be denied.

Stultified in the field of political action, there is little else that can be done. Expulsion is a possible course of action—and expulsion has occurred. Records show, however, that exile is almost invariably voluntary.[2] Moreover, exile is terminated as

[1] Many sections trade fleeces for dates with the folk of distant oases, but the sections do not trade among themselves.

[2] I recorded one case of a man who was expelled from his group and the tribes around were warned that the rules of sanctuary were not to apply to him. He is said to have died from grief and hunger. The reason given for such drastic action is that he killed

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Cyrenaica

would have dropped in on the camp. In another situation, two men entered a shop in a market-place; inside sat two men of a feuding group who, instead of retreating hastily, greeted those who had just entered, and the latter returned the greeting with blows on the head from the butts of their rifles. Markets in Cyrenaica are recognized to be places of peace. In their actions the two offenders not only injured two others but also broke a taboo in a public place. The victim's group now had to avenge not only the injury but the insult that the breach of taboo carried with it, as well. In most feud relationships this is characteristic. It is never a matter of a simple homicide, but of killing a man at the entrance to his tent, between the centre poles of his tent, or taking the life of a minor, or an elder too old to carry arms and so on. Each successive killing ensures that the hostile relationships will be perpetuated.

The third step in this exposition, therefore, is the association of a state of feud with the secondary order of segmentation.

When the relationships between the structurally superior primary tribal sections are examined, the arguments against the necessity for peace are stronger than in the case of secondary sections. Relationships between them are few and irregular. Only occasionally do members of these groups meet, and then often accidentally; very many men of collateral primary sections are complete strangers one to the other. If a homicide occurs between two primary sections it is unlikely that any attempt to open negotiations will be made. The offender's camp may be raided by a *ghazi* recruited from the victim's kinsmen. There would be no question of these primary sections going to war. On a raid firearms may be used, but the action is limited to a strike-and-run affair. If the issue is joined and members of both sides are ranged against each other they fight with sticks to avoid large-scale slaughter: warfare must not be allowed within the tribe. Wars belong to intertribal relationships. For one of these wars, apart from hearsay evidence, some records exist. These tell of a war which took place during the period 1860 to 1865, in which there were planned campaigns, the organization of fighters into groups, and provisions for a labour force in the home territory, large enough to produce sufficient food to maintain an army in the field. During this war several hundred people were killed.

At this point, it is possible to summarize the stages in this exposition of the Bedouin view in diagrammatic form.